

MINUTES OF REGULAR MEETING  
SUGAR CITY COUNCIL  
WEDNESDAY, DECEMBER 6, 2006

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

Present: Mayor Dalling; Sharon L. Bell, Clerk; Councilmembers Harold Harris, Walter Deitz, Bruce King and Brad Orme; Scott Lee, City Attorney; Jan Gallup; Vaun Waddell; Tom Gallup; Lois Webb; Kerry Moser; and Stephanie Blackham. Councilmember Walter Deitz was excused for part of the meeting.

**PUBLIC HEARING (TITLE 8, CHAPTERS 1-5, DESIGN REVIEW):** The Mayor welcomed everyone and reported that Jan Gallup has played a major role in this and has been employed by the City to revise these ordinances, he asked Jan to walk us through our reason for this second hearing because of changes. Jan presented a short overview of Title 8, Building and Site Ordinance. Chapter 1 is Building Code; Chapter 2 is new (outlines Design Review); Chapter 3 is Design Standards; Chapter 4 is Landscape Standards; and Chapter 5 is Signage. The purpose of design review is to recognize the interdependence of land values, to encourage harmonious development with the desired character of the City, provide planning and design guidelines, and to maintain a small-town family-oriented atmosphere. Design review applies to stores and businesses, business park, manufacturing and industrial areas, planned unit developments, multi-family residential, and remodel or renovation of buildings and sites. It does not include single-family housing.

Jan presented some of the major changes that have been made from the last public hearing. The City Engineer shall have input when deemed necessary by the City Council. Some of the language has been changed from "shall," which is mandatory, to "should," which has more leeway. Some standards have been changed to include more material options in building materials that can be used; and there were two trees added to the landscaping tree list.

The Mayor said we have some written testimony to enter into the record. He called first for those who wanted to testify in favor of approving Title 8, Chapters 1-5 (Design Review). Comments were made as follows:

**TOM GALLUP**, 309 South Austin Avenue. He stated he is in favor of design review. It is valuable for the City to have some guidelines for people coming in for new businesses, so we have consistency in design. He left with the Council a list of over 40 names of individuals who he reviewed design review with, who are all in favor of it. The first paragraph reads: "As citizens of this community we ask City Council to approve Title 8 Chapters 1, 2, 3, 4 and 5, commonly referred to as Design Review, as currently written and presented at this public hearing (December 6, 2006)." Mr. Gallup had one individual who decided to write a letter directly to the City Council, which he read into the record as follows: "Dear City Council. I would like to encourage

you to set up a design review board for Sugar City. I have lived in other cities and have seen the importance of having many people involved in the growth of the community. When you allow more people involved in the decision-making process you will have less of a chance of having special interest groups always getting what is good for them, not necessarily for the good of the community. Please record me as showing my support for design review. Thank you. Ninette Galbraith, 1 West Stoddard, Sugar City.”

Mr. Gallup reported a few years ago there was a survey in the community wanting to know what was the most important thing to the people in Sugar City. What came up was that we wanted Sugar City to maintain that small-town family-oriented atmosphere, and that’s what design review will do for us.

**STEPHANIE BLACKHAM, 217 North Teton.** She is in favor of design review. We have a nice town here, and she feels it is necessary for us to have some guidelines and regulations to make sure it stays that way. She is especially in favor of the signage and landscaping standards in design review. Trees always beautify a city. There is a difference between having a small hick town and a small town, and we would like to keep this a small town. We want it to look nice, so she is in favor of design review standards.

**MARLENE WEBSTER (LETTER READ INTO RECORD):** Clerk Sharon L. Bell read: “To members of the City Council of Sugar City: I represented the business sector of the city on the committee assigned to prepare a design review ordinance. Others on the committee represented the impact area, city interests and construction. We spent many hours discussing and working through Title 8. This ordinance has been before city council for over a year and there has only been one person who has given statements at a public hearing opposing the ordinance. Many citizens are in favor of Title 8. I encourage you to approve it tonight if you are representatives of the people of this community. It appears to me that there is a special interest group opposing this ordinance consisting of three business owners in the downtown area. Two of these owners are on the city council. That isn’t right when so many citizens have supported design review. I understand that only twenty signatures are required for an initiative petition, which would take the power away from city council and put it in the hands of the people. Is that what you want? Represent the people and vote to accept design review as it is now written. Thank you, Marlene Webster.”

The Mayor called for those who wanted to testify against approving Title 8, Chapters 1-5 (Design Review). Comments were made as follows:

**VAUN WADDELL, 275 E. Appaloosa.** He asked that we read the letter he presented because he isn’t going to cover it. He hoped it would be read before the Council proceeds with any action. Mr. Waddell said he is probably the individual referred to in previous testimony where only one person is on record testifying against design review. He said we are talking about two different things. There’s the general question whether you are for or against design review. He said he has never said he is against it in principle. He has raised objections to the draft in which it exists now, and that is what he has testified against. As to the possibility of a special interest group consisting of three people – one citizen and two city councilmembers – he went on record as saying that he has never discussed design review with any business owners in the city in the context of “let’s get together and do something.” He hasn’t been a part of that type of discussion. He is in favor of a small-town, family-oriented atmosphere. He said he would be

interested to know how many of the 40 people who signed the petition read the ordinance and thought about its implications in terms of implementation and practical impacts upon the town. In his letter he clarified one small point. At the top of the second page, he asked the City Clerk to insert the words "by me." He said there are significant flaws with the document – talking about the document, not the concept. What he is asking tonight is, "What facts on the ground are driving us toward passing into law a draft that is manifestly not ready?" Thank you.

7:00 p.m. Councilmember Deitz was excused.

**LOIS WEBB**, 105 South Park. She said she is in favor of a design review and believes having a design is important for every city. Her difficulty is it is too detailed in its present form. She feels it would be impossible to live every rule in there, and is concerned about who will monitor it. She doesn't believe citizens know this ordinance and wonders if something can be put in the monthly newsletters to let people know what is going on. Mrs. Webb is for design review, but not for one this detailed.

**KERRY MOSER**, 415 South Pine. She is for design review, but feels ours is too detailed. She has checked with larger neighboring cities and ours is a larger document than theirs. She feels people are not advised on what is going on. There are a couple of things she feels should happen: the decision needs to be postponed and have another public hearing after more citizens have an opportunity to know exactly what is being voted on. She feels the City should create and maintain a city Web site, which would include all the ordinances and also list the Web site on the marquee. People will be more informed if they can get it on the Web site. She also suggested advertising in the monthly newsletter what is being worked on. Mrs. Moser is against the ordinance as it sits right now. She feels a design review board should be selected by the City Council, not by Planning and Zoning.

She presented two letters to the Council, which are against voting for design review in the way it currently sits. She read her letters as follows: "To the Mayor and Council of Sugar City: I write this letter to plead with you to allow more opportunities for the residents of the city to be involved in the processes of forming the code for our city. As you are well aware, with the new comprehensive plan, many new ordinances are being formed that will directly affect the residents of the city. It is a huge task to be well informed and to take an active roll in the process. I have some suggestions that I feel are absolutely vital to our community so the ordinances will reflect the desire of the majority of the residents and not the agendas of a select few." It has been pointed out in one of the letters that they felt it was just a personal interest group. If more people in the community know, more people can talk about it. "1. Postpone the decision on Title 8 or any other portion of the building code until the residents have a better opportunity to digest the pages and pages of documents that will dictate their lives in Sugar City. Have an additional hearing after people have time to process the proposed rules." She said she had no idea this was the second time around for this. "2. Create and maintain a city Web site. If people have ready access to the actual ordinances (proposed and already passed), there will be much less misinformation among the general public. The Internet provides more hours of access to the information." She went on, "With several part-time employees working in the office, the ordinance books are often difficult for them to locate. There isn't a place in the city office for people to sit down to read the information unless they were permitted to take them into the council room. The lengthy nature of the proposed ordinances makes them costly to copy. Many other cities around us (Ashton, Rexburg, Rigby, Idaho Falls) have their documents on the

Internet. It promotes a feeling of checks and balances. It helps us feel that we can keep up on things. Public meetings are often hard to attend because of other important obligations. 3. Put updates in the monthly city newsletter about additions to the city Web site and proposed documents that are and will be discussed in the next few months. 4. Permanently display the Web address on the city marquee. The above listed items will help the citizens of our community have better access to the workings of our beautiful city. All should be given the opportunity to voice their beliefs, but their opinions won't be worth much unless they are well informed. It is imperative that everyone has easy access to documents and the proper opportunity to voice their opinions. Thank you for your time in considering the above-mentioned items. Kerry Moser."

Mrs. Moser wondered how many of the 45 people have read the document in full.

Excerpts from Mrs. Moser's second letter: "I have been asking citizens of the community for a week what they think. The response has been loud and clear. They are for less government. You are our elected officials. You are responsible to those that supported you in the polls because we felt that you would represent the majority. Please use the power that we have entrusted you with and veto Title 8 as it has been presented to you from the Planning and Zoning Board." Mrs. Moser feels it needs to be smaller and concise.

**VAUN WADDELL (LETTER READ INTO RECORD):** Mr. Waddell asked permission to give another comment. He said while he had heard that Mrs. Webb would attend tonight, he had not discussed any testimony with her. Mrs. Moser's testimony was a complete surprise to him, and her previous activities. He mentioned that so there could be no misunderstanding about interest groups or people making plans together.

The Mayor asked Clerk Sharon L. Bell to read Mr. Waddell's letter, as follows: "Mayor Dalling and City Councilmen. Dear Gentlemen: Please accept this letter into the proceedings of today's public hearing on Title 8. I oppose Title 8 being enacted as a City Ordinance in its present draft. Comments you have made in City Council meetings since 26 October 2006 include: It is full of trouble. It is not the best. It is too restrictive. It is a mind-boggling document. Once it's passed, it's hard to change. The partial draft by Vaun Waddell is definitely an improvement. Parking lots shouldn't have planters or light poles because of snow removal. No developer is going to landscape so as to degrade his property. It will inhibit developers from coming to Sugar City. It is the opposite extreme from Proposition 2 [on the ballot of the Idaho state election, 7 November 2006]. I am concerned about its implementation. What would it look like functioning? Implementation will be difficult. How to enforce it? How to have expertise in a volunteer committee to oversee engineers and other professionals? Getting volunteers with expertise will be tough. Large cities have paid employees to oversee. I have the same concern about the board being volunteers; we could come back to this later. We should set Title 8 aside until we have time to work on it. I too am for setting it aside to deal with more pressing things.

"From previous discussions and writings by me: As drafted, Title 8 would cancel property lines because it cannot be complied with on lots that are only 25' wide. Its legality could be challenged on this ground. It would constitute a *de facto* moratorium on commercial development in Sugar City by making commercial development infeasible in most instances. Therefore it depresses – effectively cancels – the value of commercial property in Sugar City, which is in conflict with the first purpose of the Comprehensive Plan, 'to protect rights and enhance property values.' A handful of citizens expressing themselves in favor of the general concept of design review, who would not be financially impacted by it, cannot be interpreted as a public outcry in favor of design review. The draft is not yet in a form that is well organized and well written. It is full of inconsistencies, errors, and contradictions. It would be a shame upon

Sugar City to enact such a poor document. Design review is an aesthetic concern. The draft overlaps and conflicts with structural and safety standards, an impossibility for builders and a reason why this draft would constitute a moratorium on commercial development in the City. The draft is disconnected from the history and tradition of Sugar City in that not a single business in the City approaches the standard as drafted. The draft is informed by a theory of governance that is opposite the theory of government 'by consent of the governed.' I encourage you to refrain from even bringing this egregious draft to a vote. Sincerely yours, Vaun Waddell."

Attorney Lee said Jan Gallup could give a rebuttal for the City. Mrs. Gallup asked if, as the applicant, they take the stance that they are in favor of it? Attorney Lee said in this instance it is not so much an applicant because we are talking about an ordinance. Jan did the work for the Planning & Zoning Commission. Jan gave a statement on procedure for public hearing: She feels Tom Gallup should read the letter that he submitted, in fairness to those opposed being allowed to read their letter. The Council agreed to let Mr. Gallup read his letter.

**TOM GALLUP (LETTER READ INTO RECORD):** In clarification on the 46 people who signed this, he said they had not all read the full ordinance but they did cover each of the chapters. He spent a lot of time with each of them just visiting about it, then he read the letter as follows: "As citizens of this community we ask City Council to approve Title 8 Chapters 1, 2, 3, 4 and 5, commonly referred to as Design Review, as currently written and presented at this public hearing (December 6, 2006) based on the following reasons.

"1. The design review ordinance provides equitable and universal criterion for evaluating city development and improvements.

"2. It has been stated that the design review ordinance is too much for this community. We know Sugar City will grow and we believe that it should grow in an orderly manner. If the city does not have an ordinance in place, there is not a way to regulate the type of growth that is allowed.

"3. A design review committee and the design review process allow for broader representation from the community and especially the impact area. A logical and orderly process is established by having the design review committee, consisting of city and impact area representatives, make recommendations to the planning and zoning commission, which also has representation from the city and the impact area; whereas, city council *does not* have a representative from the impact area. Design review, as it is now written, allows for checks and balances in the approval process. We believe that a design review committee and the design review process will prevent present and future members of city council who may own property susceptible to design review from exercising greater control than should be allowed.

"4. In a letter dated June 6, 2005 sent to the Madison County Commissioners and approved by planning and zoning and city council, it states: City Ordinance Revisions: Sugar City is working to bring city ordinances up to a standard equal to or exceeding that of other proactive communities – both locally and regionally. The following ordinances are being revised: Water and Sewer Ordinance; Planning and Zoning Ordinance (zoning districts are more extensive, the land use schedule is being updated, a design review board and design standards are being established); and Subdivision Ordinance.

"5. The following objectives in the Sugar City Comprehensive Plan are facilitated with the implementation of design review: Develop and update standards of design for the community, which model community values. Strive to create an aesthetically pleasing community, which will protect the unique natural beauty and small-town character of the city. Maintain and create visual

and functional similarities between city parks and open space. Encourage the planting of trees and bushes that will create beauty and add to the healthy environment of the city. Encourage the screening or fencing of any salvage and junkyards. Develop a visual gateway into the city to improve citywide identity. Encourage the creation and enhancement of landscaping throughout the city. Discourage proliferation of visual clutter along public rights-of-way, such as billboards, signs and dumpsters. Encourage development design that is aesthetically pleasing and that will reduce the negative impact on neighboring properties.

"6. Community Design Implementation of the Sugar City Comprehensive Plan lists the following action to be carried out by planning and zoning and city council with active involvement from citizens of the community. Prepare and adopt design guidelines and development standards to be the basis for design review of architectural, landscaping, signage and other visual impacts of residential, commercial and industrial development projects.

"7. A competent committee of citizens representing the city and city impact area have prepared the design review ordinance with specific representation from persons involved in business (Marlene Webster), engineering (Bill Barnhill), city planning (Lawrence Nielsen and Ninette Galbraith), and construction management (Dar Holdeman). Stephanie Blackham also served on the committee.

"8. The Sugar City Planning and Zoning Commission approved Title 8 Chapters 1 through 5.

"9. Design review will assist in creating an aesthetically pleasing community.

"10. A small-town, family-oriented atmosphere will be maintained.

"11. As the city grows, open space and landscaping will become an integral part of the community under design review. Thank you." Mr. Gallup said this is followed by a list of the people who signed the letter. He believes there have been some points raised that are valuable. He feels we need to move forward so when development comes in, we will be prepared for it as a city. It has been before the city for quite some time.

The Mayor asked if there were any other negative or positive comments on this design review ordinance. He declared the hearing ended.

7:20 p.m. The public hearing ended and the Council convened their regular meeting.

Present: Mayor Dalling; Sharon L. Bell, Clerk; Councilmembers Harold Harris, Bruce King and Brad Orme; Scott Lee, City Attorney; Sharee Palmer, Planning & Zoning Commission; Jan Gallup; Vaun Waddell; Tom Gallup; and Lois Webb. Attorney Richard Smith was in attendance for part of the meeting.

The Mayor asked if there were any corrections to the minutes of the regular meeting held November 9, 2006, and the minutes of the special meeting held November 21, 2006. Each Councilmember had a copy of said minutes prior to the meeting. It was moved by Councilmember Orme and seconded by Councilmember King to accept the minutes of November 9, 2006; motion carried. It was moved by Councilmember Orme and seconded by Councilmember King to accept the minutes of November 21, 2006; motion carried.

**CITIZEN INPUT:** Lois Webb presented a letter to the Council asking for permission to speak at the P&Z meeting tomorrow night. Attorney Lee said it should be directed to P&Z tomorrow

night, and that the chairman has the right to set how long every person can speak. Everyone does have the opportunity to speak.

**JAN GALLUP – ORDINANCE REVISIONS:**

**Title 9, Chapter 6, Zoning Districts, and Zoning Map:** Jan led a power point discussion on Title 9, Chapter 6, Zoning Districts – Residential Districts, Open Space District, Commercial Districts, Business Park/Manufacturing Districts, also the Land Use Schedule.

8:15 p.m. Councilmember Deitz returned.

Upon Councilmember Deitz’s return, Jan continued her discussion on Traditional Neighborhood District. After discussion, it was decided to change the name to “Multiple Use District.”

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

**Cell Towers:** P&Z has worked on the cell tower ordinance. They will go to public hearing on it at their first meeting in January. A discussion was had on continuing the moratorium. **MOTION TO EXTEND THE MORATORIUM ON CELL TOWERS:** It was moved by Councilmember Deitz and seconded by Councilmember King that we extend the moratorium on cell towers until the ordinance is finished, for an additional 60 days; motion carried.

**Kennel and Fence Issues:** P&Z is working on these two issues. The kennel issue will come up in a later discussion with Jan Gallup.

**Recommendations for P&Z Members:** P&Z needs a replacement for city member, Keith Nielsen, and for county members, Garry Jeppesen and Sharee Palmer, whose terms expire the end of December. Sharee reported a few recommendations from P&Z for city members and for county members. She said if the County is okay with it, she would stay on the P&Z, but not as chairman. The Mayor and Council will discuss P&Z’s recommendations and take the county recommendations to the County. Sharee said Bob Oliphant’s term expires the end of December, but he would be willing to stay on.

**JAN GALLUP – ORDINANCE REVISIONS (CONTINUATION):**

**Non-Commercial Kennel:** She revised the animal control ordinance. They are very specific about commercial and non-commercial kennels. A non-commercial kennel is allowed in all of the districts but Open Space and M-2 by special use permit. Discussion was had. The Mayor said he would give Jan a big block of time on the agenda on December 28<sup>th</sup>. Jan asked the Council to review Title 9 Chapter 6, Zoning Districts, and Title 4 Chapter 1, Animal Control Ordinance, which she will email to them.

**MAYOR’S BUSINESS:** The Mayor reported he would like to go into executive session. He asked Attorney Richard Smith to attend. Mr. Smith arrived at 9:15 p.m.

**EXECUTIVE SESSION:**

9:15 p.m. It was moved by Councilmember King and seconded by Councilmember Deitz, pursuant to Title 67-2345(1)(b) & (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 adjourned.

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

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