

MINUTES OF REGULAR MEETING  
SUGAR CITY COUNCIL  
THURSDAY, DECEMBER 28, 2006

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

Present: Mayor Dalling; Sharon L. Bell, Clerk; Councilmembers Harold Harris, Walter Deitz, Bruce King and Brad Orme; Sharee Palmer, Planning & Zoning Commission; Kyra Davis, Standard Journal; Ben Davis; Jan Gallup; and Tom Gallup.

The Mayor asked if there were any corrections to the minutes of the regular meeting held December 14, 2006, and the minutes of the special meeting held December 21, 2006. Each councilmember had a copy of said minutes prior to the meeting. It was moved by Councilmember Deitz and seconded by Councilmember Harris to accept the minutes of December 14, 2006; motion carried. It was moved by Councilmember King and seconded by Councilmember Deitz to accept the minutes of December 21, 2006; motion carried.

**CITIZEN INPUT:** There is one item of citizen input later in the meeting under Mayor's Business.

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

**Title 8, Chapter 6 (Wireless Service and Cell Towers):** Sharee reported P&Z's public hearing for the Cell Tower ordinance is scheduled for January 18, 2007, at 7:30 p.m.

**ORDINANCE REVISIONS:** Jan Gallup addressed the Council.

**Title 9, Chapter 6 (Zoning Districts) and Title 4, Chapter 1 (Animal Control):** Jan reported that the last time we discussed this, we changed the name "Traditional Neighborhood District" to "Multiple Use District." She explained that the land use schedule and the dog ordinance go together because we were discussing whether to have a non-commercial kennel license. These two ordinances mesh together. A non-commercial kennel license does not allow a person to breed, raise, handle or train dogs for profit, so it can't be a home business. A non-commercial kennel license was allowed in R-1 and R-2 districts, but the problem hasn't been the number of dogs as much as it has been people breeding dogs and dogs not being on a leash. Those are the two complaints we usually receive. A commercial kennel is not presently allowed in R-1 or R-2 zones. People are raising dogs and making a profit. The City has not stopped them from doing it. Now we are starting to get some complaints regarding the people who are doing it. We need to either allow it with some stipulations or enforce the ordinance and not allow it. A discussion was had on a non-commercial kennel and a commercial kennel. Jan said this is a good time for the Council to take a direction on the dog issue.

A discussion was had on the Multiple Use District. Jan reported the Multiple Use District is a specific zone, which is very flexible. Nothing is allowed in a Multiple Use District without a

special use permit. On the zoning map, which Jan has been working on, there are no Multiple Use Districts. Someone would have to come in and apply for a zone change. Jan said P&Z had a public hearing on this and approved it. It was the consensus of the Council to further study Title 9, Chapter 6, specifically whether to have a Multiple Use District.

#### **DEPARTMENT REPORTS:**

**COUNCILMEMBER HARRIS:** Harold led a discussion on snow removal and sanding. He talked to the maintenance people about cleaning the intersections and the storm drains. He told them the snow should be removed by 7 a.m. They have been instructed to clean the commercial area on Center Street, including the sidewalks. A discussion was had on plowing Center Street from the outside to the center of the street, piling the snow up and then hauling it away. Harold said the Idaho Transportation Department has a lot of input into that. He will contact them to see if they would be willing to make this change.

**COUNCILMEMBER DEITZ:** No report.

**COUNCILMEMBER KING:**

**Revisions to Title 1:** Bruce reported he did further research on Title 1, but he wasn't able to finish it. There are some details he needs to work out. He will have suggestions for Chapter 1 at the next meeting.

**Putting Ordinances on Web Site:** Bruce talked with Sterling Codifiers about putting our ordinances on the Web site. He reported that the words in the printed copies they send us for our books and the words on-line in the electronic version will be identical, although the formatting will be different.

**COUNCILMEMBER ORME:** No report.

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

**Planning – 2007:** The Mayor assigned each Councilmember to come to the next meeting with some suggested ideas of what they would like to do in their departments during the upcoming year.

**Annual Road & Street Financial Report:** The Mayor presented the Annual Road and Street Financial Report. This report shows how we have spent the money we received from the State of Idaho. It was moved by Councilmember Orme and seconded by Councilmember Deitz to approve said Annual Road and Street Financial Report; motion carried.

**Investing from Savings into CDs:** The Mayor asked for authorization to buy Certificates of Deposit with three savings accounts—Zions Bank, US Bank, and Westmark. He said the Bank of Commerce had quoted 5.2% for a five-month CD. A discussion was had.

**MOTION:** It was moved by Councilmember Harris and seconded by Councilmember King that we authorize the Mayor and Marcie to invest the money in CDs with the highest interest rate available; motion carried.

**Post Office Boxes:** The Mayor reported if you live more than one-fourth mile away from the Post Office, you can require the Postal Service to give you a mailbox and they will deliver the mail. A discussion was had on the location of mailboxes. The Post Office wants the mailboxes to be located on one side of the road, but it creates a problem with location of the boxes on other people's property. Councilmember Harris will discuss the matter with the local Post Office and report to the Council at the next meeting.

**City Hall Front Entrance:** The Mayor feels our front entrance office should be remodeled to allow a place for people to sit down and read ordinances, minutes, etc. We also need a little more bulletin board space. He asked Harold to look into it.

**Citizen Input on Executive Sessions:** The Mayor reported that Jan Gallup had something to present during citizen input, and he gave her permission to present it under Mayor's Business. Jan addressed the Council. She said after reviewing the minutes of December 14, she is concerned that City Council may discuss things in executive session not allowed by state statute, such as appointments for candidates to serve on the Planning & Zoning Commission. She doesn't believe that they are public officers, or that they are hired or are staff, and she doesn't believe that they fall under the category of personnel. They would have to fall under this category in order for the Council to properly discuss them in an executive session. She also believes that state statute says that executive sessions can have minutes to the extent that those minutes describe basically what was discussed. She doesn't think City Council has been doing that—allowing a basis of what they are discussing, other than just saying personnel and litigation. It would be public record. It doesn't have to be in detail, but it does need to address basic topics of what is discussed in executive session. She said she wanted to bring that to the attention of City Council so that it is public record and that it has been brought to your attention.

A discussion was had. Jan said she feels the citizens of this community should have a record of any discussion by this Council regarding people who will have a vote. People who are hired don't have a vote, but members of Planning & Zoning do, which affects the citizens of this community. Based on state statute, Jan said she doesn't feel that discussion of Planning & Zoning members falls under executive session criteria. She said discussions should be out in the open and should be in the minutes so that citizens can review those minutes. If they want to attend the meeting, they can listen to the discussion and be part of that process. It shouldn't be held behind closed doors. Councilmember King expressed that he would like to look at the statute again, based on what Jan said. He feels that a member of Planning & Zoning is actually a public officer in that they are appointed by the Mayor and then confirmed by the City Council. It was felt we should discuss this matter with our City Attorney.

Jan said she was just making a citizen's statement. It is something that she feels the Council needs to be aware of. She said she will personally pursue it, and she has felt that in some executive sessions there has been discussion of things that should be discussed in an open meeting. Any further discussion on this matter will need to be among the Council. The Mayor asked Jan if we were not to say anything about appointments to the County Commissioners—just have them appoint them. She said she didn't know. That is why she requested the evaluation inquiry. She said regarding the letter she submitted to the City Clerk, part of it was because she isn't sure; but she feels there are important issues that need to be investigated and researched.

Councilmember King expressed the fact that it is important not to discuss things in executive session that should be discussed in open meeting, and he feels that we are trying to honor that responsibility. Out of fairness to the citizenry, government should not be conducted behind closed doors. His perspective is that we are trying to conduct business in open meeting and we want to be careful in executive sessions to discuss only what the Code allows. He feels there are reasons why the Code allows certain discussions in executive sessions.

Councilmember King gave Jan a copy of a letter that he presented to the Planning & Zoning Commission at their meeting at 7:30 p.m. on December 21, 2006, which reviews basic rules on appointing citizens to the Planning & Zoning Commission. Attorney Scott Lee helped him prepare it. Prepared at the request of the Council at a special City Council meeting at 8:45 a.m. on December 21, 2006, the letter is attached hereto, marked "Attachment 1," as a matter of public record.

**EXECUTIVE SESSION:**

8:35 p.m. It was moved by Councilmember King and seconded by Councilmember Harris, pursuant to Idaho Code 67-2345(1)(a), (b) & (f), that we move into executive session to consider hiring, to consider personnel matters, and to consider litigation concerns. 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.

Discussions during executive session were on appointments to the Planning and Zoning Commission, on personnel issues, and on pending litigation on annexations.

9:50 p.m. The executive session ended and the regular Council meeting reconvened.

**APPOINTMENT TO P&Z COMMISSION:** The Mayor recommended that he appoint Vaun Waddell to fill the city-representative vacancy on the Planning & Zoning Commission.

**MOTION:** It was moved by Councilmember Deitz and seconded by Councilmember Orme that we confirm the appointment of Vaun Waddell to fill the seat vacated by Keith Nielson on the Planning & Zoning Commission; motion carried.

Meeting adjourned at 9:55 p.m.

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

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

December 21, 2006

Dear Planning and Zoning Commission:

First, thanks for all your good work. The city council deeply appreciates the conscientious way you fulfill your responsibilities.

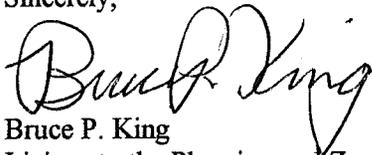
This letter is to review basic rules on appointing citizens to the planning and zoning commission. I prepared it at the direction of the city council after a special meeting this morning.

Here are the fundamentals as we understand them:

- Sugar City's planning and zoning commission shall comprise five representatives from the city and three representatives from the impact area.
- The mayor shall appoint the five city representatives, which the city council must confirm.
- The chairman of the county commissioners shall appoint the three impact-area representatives, which the county commission must confirm.
- The term of office for a P&Z commissioner shall be three years.
- No person shall serve more than two full consecutive terms without specific concurrence by two-thirds of the city council or of the county commission, respectively.
- Appointments shall be staggered.
- Vacancies shall be filled in the same manner as the original appointment.
- There is no requirement or prohibition relating to who may give suggestions or recommendations for members of P&Z.

Please see Idaho Title 67-6504 and Sugar City Code 9-3-3 for details.

Sincerely,



Bruce P. King  
Liaison to the Planning and Zoning Commission  
Sugar City Councilmember