

MINUTES OF REGULAR MEETING  
SUGAR CITY COUNCIL  
THURSDAY, JANUARY 10, 2008

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

Present: Mayor Dalling; Sharon L. Bell, Clerk; Marcie A. Smith, Treasurer; Councilmembers Harold Harris, Walter Deitz, Bruce King and Brad Orme; Josh Garner, City Attorney; Brian Hawkes, Planning & Zoning; Kyra Davis, Standard Journal; Vaun Waddell; Sharee Palmer; Lamont Merrill; and Paul Lusk.

**PUBLIC HEARING (TITLE 9, CHAPTER 6, ZONING DISTRICTS):** The mayor welcomed everyone and brought the hearing to order. City Clerk Sharon Bell reported there was no prior written testimony submitted. Mayor Dalling called first for those who wanted to testify in favor of approving Title 9, Chapter 6 (Zoning Districts). No one testified in favor. He then called for those who wanted to testify as being neutral. No one testified as being neutral.

Mayor Dalling called for those who wanted to testify against approving Title 9, Chapter 6 (Zoning Districts). Comments were made as follows:

**SHAREE PALMER**, 1087 E. Moody Road. She read a statement into the record, a copy of which is attached hereto marked "Attachment 1."

6:40 p.m. The public hearing ended and the council convened their regular meeting.

Present: Mayor Dalling; Sharon L. Bell, Clerk; Marcie A. Smith, Treasurer; Councilmembers Harold Harris, Walter Deitz, Bruce King and Brad Orme; Josh Garner, City Attorney; Brian Hawkes, Planning & Zoning; Dana Izatt, Searle, Hart & Associates PLLC; Kyra Davis, Standard Journal; Vaun Waddell; Paul Lusk; Ryder Merrill; Garrett Wood; Lamont Merrill; and Denise Merrill.

The Mayor asked if there were any corrections to the minutes of the regular meeting held on December 13, 2007. Each councilmember had a copy of said minutes prior to the meeting. It was moved by Councilmember Harris and seconded by Councilmember King to accept said minutes; motion carried.

Marcie presented the December reconciliation reports for the General Fund. It was moved by Councilmember Deitz and seconded by Councilmember Harris to accept the December reconciliation reports for the General fund; motion carried. Marcie presented the December reconciliation reports for the Utility Fund. It was moved by Councilmember Harris and seconded by Councilmember Orme to accept the December reconciliation reports for the Utility Fund; motion carried.

Marcie presented the current bills in the amount of \$54,348.56. It was moved by Councilmember King and seconded by Councilmember Orme to pay the current bills, with the exception of a Sterling Codifiers entry until checked out, together with all regular January bills that have not yet been received; motion carried.

**ORDINANCE NO. 270 (Zoning Definitions Chapter):**

Councilmember Orme introduced Ordinance No. 270 entitled:

“AN ORDINANCE ADOPTING DEFINITIONS FOR TERMS CONTAINED IN TITLE NINE OF THE CITY OF SUGAR CITY’S DEVELOPMENT CODE; AND PROVIDING WHEN THIS ORDINANCE SHALL BECOME EFFECTIVE.”

It was moved by Councilmember King and seconded by Councilmember Harris to waive the reading on three different days and in full and place it upon its final passage. Thereupon the Clerk called roll upon said motion.

Those voting aye: Councilmembers Harris, Deitz, King and Orme  
Those voting nay: none

Thereupon, the Mayor declared that the motion, having been passed by not less than two-thirds of the Council, had been duly carried. It was moved by Councilmember Harris and seconded by Councilmember Deitz to adopt said ordinance. Thereupon, the Clerk called roll upon said motion.

Those voting aye: Councilmembers Harris, Deitz, King and Orme  
Those voting nay: none

Ordinance No. 270 was thereupon declared by the Mayor to have been duly passed by not less than two-thirds of the Council, and the Clerk was instructed to publish said Ordinance No. 270 in summary or full immediately in at least one issue of the *Standard Journal*, a newspaper published in the City of Rexburg, Madison County, Idaho.

**ORDINANCE NO. 271 (Design Review Chapter):**

Councilmember Orme introduced Ordinance No. 271 entitled:

“AN ORDINANCE ADOPTING REGULATIONS AND STANDARDS FOR SITE PLANS, NEW CONSTRUCTION, REMODELING AND LANDSCAPING OF ALL BUILDINGS OR STRUCTURES OTHER THAN SINGLE-FAMILY DWELLINGS OR TWIN HOMES CONSTRUCTED ON ITS OWN PARCEL; AND PROVIDING WHEN THIS ORDINANCE SHALL BECOME EFFECTIVE.”

It was moved by Councilmember Harris and seconded by Councilmember King to waive the reading on three different days and in full and place it upon its final passage. Thereupon the Clerk called roll upon said motion.

Those voting aye: Council members Harris, Deitz, King and Orme  
Those voting nay: none

Thereupon, the Mayor declared that the motion, having been passed by not less than two-thirds of the Council, had been duly carried. It was moved by Councilmember Deitz and seconded by Councilmember Orme to adopt said ordinance. Thereupon, the Clerk called roll upon said motion.

Those voting aye: Councilmembers Harris, Deitz, King and Orme  
Those voting nay: none

Ordinance No. 271 was thereupon declared by the Mayor to have been duly passed by not less than two-thirds of the Council, and the Clerk was instructed to publish said Ordinance No. 271 in summary or full immediately in at least one issue of the *Standard Journal*, a newspaper published in the City of Rexburg, Madison County, Idaho.

**ADMINISTRATION OF OATH OF OFFICE TO NEWLY ELECTED OFFICIALS AND PRESENTATION OF CERTIFICATES OF ELECTION:** After concluding the fiscal matters of the preceding year, City Clerk Sharon L. Bell performed the swearing in of the newly elected officers as follows: Mayor Glenn W. Dalling for a term of four years; and Councilmembers Harold L. Harris and W. Lamont Merrill for a term of four years each. The Mayor and Councilmembers signed the Oaths of Office, were presented with Certificates of Election and took their places at the council table.

**ELECTION OF PRESIDENT AND VICE-PRESIDENT OF COUNCIL:** Mayor Dalling called for the election of officers. **MOTION:** It was moved by Councilmember King and seconded by Councilmember Merrill that Councilmember Harris be elected President of the Council; motion carried. It was moved by Councilmember Orme and seconded by Councilmember Merrill that Councilmember King be elected Vice-President of the Council; Councilmember King abstained from voting; motion carried.

Mayor Dalling asked Councilmember Harris to present a plaque to Walter Deitz in appreciation for his six years of service as a City Councilmember. Mayor Dalling expressed thanks to Mr. Deitz for his faithful service to the city, which the mayor felt went beyond the call of duty. Mayor Dalling called for a ten-minute break to give everyone present an opportunity to congratulate Mr. Deitz on a job well done. Refreshments were served.

**AUDITOR'S REPORT:** Dana Izatt of Searle, Hart & Associates PLLC addressed the council, explaining the Independent Auditors' Report and the Management Report for the year ended September 30, 2007. Discussion was had. **MOTION:** It was moved by Councilmember Harris and seconded by Councilmember Orme to accept said audit as presented; motion carried.

**PLANNING & ZONING REPORT:** Brian Hawkes addressed the council.

**Title 10, Subdivision:** Brian reported P&Z is planning to take Title 10, Chapters 1, 2 and 3 to public hearing on February 7. Chapter 4 will be reviewed by P&Z and will also go to public hearing that night.

**New Officers:** Brian reported that he is the new chairman of P&Z, with Stephanie Blackham as secretary and Ninette Galbraith as assistant secretary.

**Business Park:** P&Z is ready to move forward on the zone change and will take the proposal to public hearing as soon as possible after they approve it, hopefully on February 7.

**P&Z APPOINTMENTS: MOTION:** It was moved by Councilmember Harris and seconded by Councilmember Orme to confirm the mayor's appointment of Paul Lusk as the replacement for KaraLee Ricks, who is stepping down from the P&Z commission; motion carried.

**INPUT FROM CLERK AND TREASURER ON TITLE 1, CHAPTER 8:** Sharon reported that she had no changes on the proposed new title 1, chapter 8. Marcie said that she had no changes either, except perhaps changing the bond amount from \$1,000 to \$500,000. Councilmember King asked Attorney Garner to see if it is permissible to drop the bond provision of the chapter or if we should simply include the phrase, "have staff bonded as state law requires." Attorney Garner agreed to check on the matter. Councilmember King reported that obtaining this feedback basically concludes his revision of title 1. He will put together the revised chapters for council review of the whole prior to setting a public hearing on the updated title 1.

**TITLE 9, CHAPTER 6, ZONING DISTRICTS – DISCUSSION AND DECISION:** Discussion was had. **MOTION:** It was moved by Councilmember King and seconded by Councilmember Orme to approve Title 9, Chapter 6, Zoning Districts, for enactment and to prepare this ordinance for adoption at our next meeting. The mayor called for a roll call vote:

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

Those voting nay: None

Thereupon the mayor declared the motion passed.

#### **DEPARTMENT REPORTS:**

##### **COUNCILMEMBER HARRIS:**

**Grain Elevator Stability:** Harold reported that the mayor asked him to check the grain elevator foundation for stability. Scott Spaulding, a structural engineer, previously looked at the elevator. Harold contacted a materials tester in Idaho Falls to perform underground stability testing. Harold reported there is no sign of sagging using plumb and string above ground. The mayor told Harold to proceed and spend the money to have the tester conduct the underground testing. Harold said he will review the report of the structural engineer.

**COUNCILMEMBER ORME:** No report.

##### **COUNCILMEMBER KING:**

**Legal Notices:** Bruce recommended that we add a phrase to our newspaper notices of public hearings and that we place an entry in the next newsletter that proposed new ordinances will be available for review on the city Web site. **MOTION:** It was moved by Councilmember King and seconded by Councilmember Merrill that we add the phrase, "and on the ordinances page of Sugar City's Web site" (which is located at [www.sugarcityidaho.gov](http://www.sugarcityidaho.gov)) after the existing notice statement of "Copies of the ordinance are available at Sugar City Hall"; motion carried.

**Web site:** To make it easier to find the Sugar City Code on the city Web site, Bruce recommended that we add a page to our site entitled "City Code" and post the link to the code there, while leaving the one in place on the ordinances page. Available in two places, the link will be easier to locate. It was the consensus of the council to accept this recommendation.

**Harris Annexation:** Attorney Garner reported the matter is on hold until we get the proper legal description of the Ball property. Without the correct legal description of the Ball property, we cannot annex the Harris property. He said he met with Craig Rindlisbacher, who received the description from Dick Dyer. Craig said there are still problems with the description, so he will correct the description himself and hopefully have it done this week. He talked to Mr. Zollinger, who indicated the City of Rexburg will be amenable to annexing their portion of the property at the same time we annex our portion of the property. There is a question about waiving fees. Councilmember King stated this legal description needs to be completed.

**Impact Fees:** Attorney Garner reported he discussed impact fees with Richard Horner, who has agreed to present a 30- to 45-minute seminar to the council. Richard also gave Attorney Garner some reports and other materials to study. He feels there is much benefit to having impact fees. He will set up the presentation with Mr. Horner if the council wants to hear it.

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

**Toscano Impact Study:** The mayor handed the council copies of Toscano's impact study, which was prepared by Dick Dyer.

**AIC Training on March 8:** The mayor would like as many from the council, P&Z and staff as possible to go to the meeting, "Seven Keys to Sustainable Zoning or Subdivision Decisions" in Idaho Falls on March 8, 2008.

**State of City Report:** By the next meeting, the mayor will present a state of the city address. He asked that each member of the council prepare a plan for their area of responsibility in 2008, which he recommends appear in the city's February newsletter.

**Neibaur Park:** The mayor reported that Anthony Gardner visited him on a kiosk about Tom Neibaur and a monument in Neibaur Park. Mr. Gardner requests that the city sponsor a Tom Neibaur Day and will donate \$10,000 toward the recognition measures. The mayor, Harold Harris and Brad Orme will travel to Idaho Falls to check out the monuments that Mr. Gardner suggested.

The mayor entertained a motion to go into executive session.

### **EXECUTIVE SESSION:**

8:50 p.m. It was moved by Councilmember King and seconded by Councilmember Harris, pursuant to Idaho Code 67-2345(1)(a) and (b), that we move into executive session to discuss hiring and personnel issues. The mayor called for a roll call vote: Those voting aye: Councilmembers Harris, King, Orme and Merrill

Those voting nay: None

Thereupon the mayor declared the motion passed.

Discussions during executive session were on the possibility of expanding the attorney's involvement and on hiring a part-time P&Z administrator.

10:00 p.m. The executive session ended and the regular council meeting adjourned.

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

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

Sharee Palmer  
1087 East Moody Road  
Sugar City, Idaho 83448

Public Hearing 1/10/07 Title 9 Chapter 6-Zoning

After testifying at the public hearing for the design review ordinance, it was clear to me that testimony given falls on deaf ears. It was for this reason that I did not testify at the public hearing for Title 9, Chapter 2-Definitions that was held by the Planning and Zoning commission. You approved this chapter for enactment, forgoing a public hearing, saying you had all read the definitions and were fine with them. In your wisdom I am sure some of the fine citizens of Sugar City will be impressed with your definition of KENNEL, NONCOMMERCIAL. While I'm certain "the keeping of one bitch that whelps intermittently" is an accurate term for a female dog in heated, it might be possible that the more appropriate term for a city ordinance would be female dog.

I do have suggestions and input for Title 9, Chapter 6-Zoning, but will not give it as my input would fall on deaf ears, again, and have no effect on the decision you will officially make tonight, a decision I believe was made prior to this meeting due to issues with the business park.