

MINUTES OF REGULAR MEETING  
SUGAR CITY COUNCIL  
THURSDAY, SEPTEMBER 11, 2008

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; Marcie A. Smith, Treasurer; Councilmembers Harold Harris, Bruce King, Brad Orme and Lamont Merrill; Josh Garner, City Attorney; Attorney Aaron Davis; Steve Hawkes, acting chairman of Planning & Zoning; Dick Dyer, City Engineer; Stoney Tucker of PSI Waste Systems; Deputy Cameron Stanford; Chief Deputy Ryan Kaufman; Dwayne Seiter; Terry Mortensen; Jan Gallup; Eddie Pincock; Vaun Waddell; Stephanie Blackham; and Joseph Law, *Standard Journal*, for part of the meeting.

The Mayor asked if there were any corrections to the minutes of the regular meeting held on August 28, 2008. Each councilmember had a copy of said minutes prior to the meeting. It was moved by Councilmember Harris and seconded by Councilmember Merrill to accept said minutes with three minor corrections; motion carried.

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

Marcie presented the current bills in the amount of \$177,324.28. It was moved by Councilmember Orme and seconded by Councilmember King to pay the current bills, together with all regular September bills that have not yet been received; motion carried.

**ORDINANCE NO. 277:**

Councilmember Orme introduced Ordinance No. 277 entitled:

“AN ORDINANCE ENTITLED THE ANNUAL APPROPRIATION ORDINANCE OF THE CITY OF SUGAR CITY, IDAHO, FOR THE FISCAL YEAR OCTOBER 1, 2008, TO SEPTEMBER 30, 2009, AND APPROPRIATING TO THE SEVERAL DEPARTMENTS, OFFICES AND FUNDS OF THE SAID CITY GOVERNMENT FROM THE REVENUE DERIVED FROM TAXES LEVIED FOR SAID FISCAL YEAR, AND ALL OTHER SOURCES, SUCH SUMS AS MAY BE NECESSARY OR DEEMED NECESSARY BY THE MAYOR AND CITY COUNCIL TO DEFRAY THE EXPENSES AND LIABILITIES OF SAID CITY FOR THE FISCAL YEAR ENDING SEPTEMBER 30, 2009.”

It was moved by Councilmember Orme 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: Councilmembers Harris, King, Orme and Merrill  
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 Orme and seconded by Councilmember Harris to adopt said ordinance. Thereupon, the Clerk called roll upon said motion.

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

Ordinance No. 277 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. 277 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. 278 (DiFresco Imports Zone Change):**

Councilmember Orme introduced Ordinance No. 278 entitled:

“AN ORDINANCE AMENDING AND CHANGING THE ZONING MAP OF THE CITY OF SUGAR CITY, IDAHO, AND PROVIDING THAT THE ZONED DESIGNATION OF THAT CERTAIN PROPERTY HEREINAFTER DESCRIBED, SITUATED IN SUGAR CITY, MADISON COUNTY, IDAHO, BE CHANGED AS HEREINAFTER DESIGNATED; AND PROVIDING WHEN THIS ORDINANCE SHALL BECOME EFFECTIVE.”

It was moved by Councilmember Orme 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, Orme and Merrill  
Those voting nay: Councilmember King

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 Orme and seconded by Councilmember Merrill to adopt said ordinance. Thereupon, the Clerk called roll upon said motion.

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

Ordinance No. 278 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. 278 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.

Councilmember King said he opposed the zone change because it provides a more lenient zone, which increases land value. He doesn't believe the classification accords with our land use goals.

**ORDINANCE NO. 279 (Calaway Ranch Annexation):**

Councilmember Orme introduced Ordinance No. 279 entitled:

“AN ORDINANCE ANNEXING CERTAIN LANDS TO THE CITY OF SUGAR CITY, IDAHO; DESCRIBING SAID LANDS AND DECLARING SAME A PART OF THE CITY OF SUGAR CITY, IDAHO; AND AMENDING AND CHANGING THE ZONING MAP OF 2008, OF THE CITY OF SUGAR CITY, IDAHO, AND THE SUGAR CITY COMPREHENSIVE PLAN OF 2008, TO SHOW SUCH ANNEXATION AND THE CLASSIFICATION OF THE SAME UNDER THE ZONING ORDINANCE OF THE CITY OF SUGAR CITY, IDAHO; AND PROVIDING WHEN THIS ORDINANCE SHALL BECOME EFFECTIVE.”

It was moved by Councilmember Orme and seconded by Councilmember Merrill 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, King, Orme and Merrill  
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 Orme and seconded by Councilmember Harris to adopt said ordinance. Thereupon, the Clerk called roll upon said motion.

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

Ordinance No. 279 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. 279 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.

**RESOLUTION NO. 2008-7 (Idaho Standards for Public Works Construction):**

Councilmember King read Resolution No. 2008-7 in its entirety. Councilmember Harris explained this is for maintenance of any infrastructure in the city. It was moved by Councilmember Harris and seconded by Councilmember Merrill to approve Resolution No. 2008-7; motion carried. A copy of said resolution is attached hereto marked “Attachment 1.”

**PLANNING & ZONING REPORT:** In the absence of P&Z Chair Brian Hawkes,

Commissioner Steve Hawkes addressed the council.

**Results of Public Hearing on Land Use Map:** Steve reported P&Z had their public hearing, but the land use map needs a few more revisions before they have another public hearing.

**Transportation Map:** Steve reported that P&Z wants to make sure it is done correctly. Forsgren needs to get a map from Schiess Engineering before they can go ahead, which will be in approximately 1-1/2 months.

**Review of Old Farm Estates Development Agreement:** Steve thanked the council for attending the last P&Z meeting. P&Z has made recommendations back to the council about it.

Attorney Garner advised that it would be wise to go into executive session to discuss potential litigation. The mayor entertained a motion to go into executive session.

### **EXECUTIVE SESSION:**

7:10 p.m. It was moved by Councilmember King and seconded by Councilmember Harris pursuant to Idaho Code 67-2345(1)(f), that we move into executive session to discuss potential litigation 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 potential litigation.

7:55 p.m. The executive session ended and the regular council meeting reconvened.

**DISCUSSION OF OLD FARM ESTATES DEVELOPMENT AGREEMENT:** Attorney Davis made a brief presentation and explained several changes that have been made to the development agreement. Dick Dyer also made a brief presentation. He said a development agreement could protect the interests of the city in terms of infrastructure required by the development, costs of which should not burden existing citizens. Mr. Dyer said the developer definitely understands that after the first 39 homes (phase 1), the developer will need to provide its own water and sewer needs. Discussion was had on some of the special conditions. Also, it was mentioned that only phase 1 falls under the old Title 10. The other phases will fall under the new Title 10, for purposes like open space requirements.

**PSI GARBAGE CONTRACT:** Stoney Tucker addressed the council. He proposed a 5% increase. **MOTION:** It was moved by Councilmember King and seconded by Councilmember Harris that, due to increasing costs of garbage service, the city increase the collection assessment 5% starting October 1; motion carried.

**DISCUSSION OF DOG PROBLEM – DEPUTY CAMERON STANFORD:** Deputy Stanford and Chief Deputy Ryan Kaufman addressed the council. When the sheriff's office gets a dog complaint, the person on duty will try to catch the dog and bring it to city hall. Then the city deals with it. A few people have received tickets. Since it is often hard to catch a dog, purchase of a dart gun was discussed. The mayor suggested they get a figure as to how much it would cost, and the deputies said they would look into it. We need to rewrite elements of our

dog ordinance. He asked Marcie to prepare a dog ordinance update to have for discussion in two weeks.

**DEPARTMENT REPORTS:**

**COUNCILMEMBER HARRIS:**

**Construction dust and dirt:** Harold reported that Depatco is traveling back and forth to Old Farm Estates and getting dust and debris on the streets. He addressed it with Depatco and they will try to keep the streets clean and swept. Zane Baler will follow up.

**COUNCILMEMBER ORME:** No report.

**COUNCILMEMBER KING:** No report.

**COUNCILMEMBER MERRILL:**

**Water tower painting:** Lamont reported that the water tower painting is finished and looks good.

**Net Communications:** Lamont reported he talked with Dave Thompson. Mr. Thompson told him that the initial agreement was that he would furnish the modem so that we don't charge him for the use of the tower. He claims the modem is still here. He suggested we come up with a price for having his equipment on the tower and send him a bill. Mr. Thompson will have to pay or get his equipment off the tower. The mayor will work on it. Marcie was asked to prepare a bill and give it to Lamont to present to Dave.

**MAYOR'S BUSINESS:**

**Syringa Wireless:** The mayor reaffirmed that the city will get \$6,000 per year from Syringa for use of the water tower.

**Toscano building permits:** Mr. Seiter reported they had a delay in construction finances and want to pay for their building permits on a percentage basis, as they get built. He would like to pay for building permits for the first two town homes and delay payment of the sewer, water and water meter costs until they get funding. Funds will be available on or by November 15, 2008. He wants to pour concrete for all eight buildings by the end of October 2008 and then frame during the winter. Councilmember Harris read a letter from Summit Developers (Toscano) dated August 28, 2008, on said request. **MOTION:** It was moved by Councilmember Orme and seconded by Councilmember King that we approve Mr. Seiter's request; motion carried. A copy of said letter is attached hereto marked "Attachment 2."

**Gravel pit:** The mayor reported the county wanted to put an industrial overlay on three square miles east of Sugar City. This zoning makes it easier to approve gravel pits. They have had two public hearings. He proposes that the city write a letter reaffirming its opposition to more gravel pits between Sugar City and Teton City. He will take the initiative to get it done.

**Old Farm Estates Development Agreement:** Discussion was held on the Old Farm Estates Development Agreement. The P&Z had recommended a draft written by Vaun Waddell and recommended it to the council for approval. Attorneys Aaron Davis and Josh Garner presented a copy of the Old Farm Estates Development Agreement they had worked over and made some changes the P&Z desired. The city attorneys strongly recommended the council approve their copy of the development agreement, which was quite different from the one P&Z had presented.

**MOTION TO APPROVE OLD FARM ESTATES DEVELOPMENT AGREEMENT:** It was moved by Councilmember Orme and seconded by Councilmember Merrill, in light of the current situation with Old Farm Estates Subdivision, counsel from our attorneys and all things considered, that we pass the development agreement (September 11 copy

of the Old Farm Estates Subdivision Development Agreement) recommended by the attorneys.

**SECOND MOTION:** It was moved by Councilmember King to table this motion until two weeks from today. **MOTION DIED FOR LACK OF A SECOND.**

The mayor called for a roll call vote on the original motion:

Those voting aye: Councilmembers Harris, Orme and Merrill

Those voting nay: Councilmember King

Thereupon the mayor declared the motion passed.

Councilmember King said he voted against approving this iteration of the Old Farm Estates development agreement recommended tonight by the attorneys for four reasons: (1) We just received it tonight and haven't had time to carefully compare it against earlier iterations; (2) the commission has recommended a different version of the development agreement, which I have had time to read because I received it a few days ago, and like; (3) city engineer Dick Dyer just raised concerns about continued nebulous wording regarding the developer's water responsibilities; and (4) I do not believe the developer has complied with conditions imposed by the city in the preparation of a master plan.

Meeting adjourned at 10:25 p.m.

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

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

**RESOLUTION 2008-7**

**BE IT RESOLVED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF SUGAR CITY, IDAHO, THAT:**

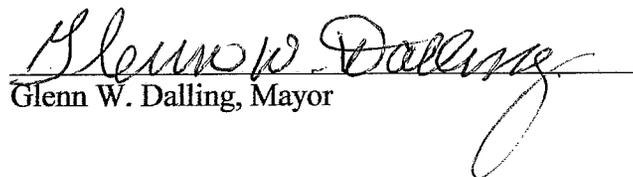
The City hereby adopts as standard for design, construction, maintenance and repair of any publicly maintained infrastructure the most current version of the Idaho Standards for Public Works Construction (ISPWC), consisting of general conditions, contract documents, design criteria, standard specifications and standard drawings as said standards now read or may, from time to time, be amended to read by resolution of the City Council.

Any person designing, constructing, repairing or maintaining public infrastructure within subdivisions or developments within the City shall conform to the most current edition of the Idaho Standards for Public Works Construction (ISPWC).

Other designs may be developed for special situations or may be required by the City. Deviations shall be based on alternative plans and standards prepared by an Idaho registered civil engineer and must be approved by the City.

The standards set forth in this title are the minimum design standards and any higher standards or conditions of approval granted under provisions of Title 9 or adopted and made applicable by any Federal, State or local regulatory agencies shall prevail over those set forth herein.

UNANIMOUSLY APPROVED AND PASSED BY THE CITY COUNCIL AND MAYOR THIS 11<sup>TH</sup> DAY OF SEPTEMBER 2008.

  
Glenn W. Dalling, Mayor

ATTEST:

  
Sharon L. Bell, City Clerk

(SEAL)

RESOLUTION 2008-7



343 E 4<sup>th</sup> North, STE 106  
Rexburg, ID 83440

August 28, 2008

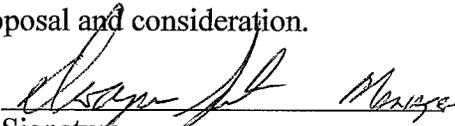
To Sugar City:

As you know, Summit Developers, LLC is developing the Toscano project in Sugar City. As our financial resources are still developing, we are ready to begin construction on the townhomes within Phase 1 of the project. To assist Summit Developers, LLC and Toscano in progressing with construction, we propose an agreement with regard to building permit fees. By such agreement, Summit Developers can effectively utilize current available funds to be the most productive. In respect with the cooler season approaching and its consequences to construction schedules, we need to be wise with our use of available funds. We intend to schedule the complete construction for 2 of the 9 buildings in Phase 1 and only foundations for the remaining 7 until the balance of our financing is complete. We propose the following terms for agreement on building permit fees:

1. Summit Developers will pay the entire permit fee for all buildings planned for complete construction excluding the "Sewer", "Water", and "Meter" fees associated such buildings. The balance of excluded fees will be paid by Summit Developers upon funding availability or by November 15, 2008 which shall be prior to issuance of "Certificate of Occupancy".
2. For those buildings that are temporarily installing foundations only, Summit Developers shall pay 5% of the building permit fee (the associated ratio of construction costs for foundation) and also exclude the "Sewer", "Water", and "Meter" fees. The balance of the building permit fee shall be paid prior to any further construction and the excluded fees will also be paid by Summit Developers upon funding availability or by November 15, 2008 which shall be prior to issuance of "Certificate of Occupancy".

In using the above terms for agreement on Building Permit Fees and schedule of payments, Summit Developers, LLC and Toscano can maximize the current use of funds for effective construction. Thank you for your time in reviewing this proposal and consideration.

  
Signature  
Sugar City acceptance and agreement

  
Signature  
Summit Developers, LLC  
c/o Toscano