

MINUTES OF REGULAR MEETING
SUGAR CITY COUNCIL
THURSDAY, AUGUST 23, 2018

Presiding: Mayor David D. Ogden
Meeting Convened at 6:30 p.m.
Prayer: Vaun Waddell
Pledge of Allegiance

Present: Mayor David D. Ogden; Clerk-Treasurer Wendy McLaughlin; Councilors Brent Barrus, Vaun Waddell, Joy M. Ball, and Bruce King; City Public Works Director Arlynn Jacobson; Chairman Dave Thompson of the Planning and Zoning Commission; Chairman Paul Jeppson of the Design Review Board; City Building Inspector Cliff Morris; Citizens Bruce Arnell, Kevin & Kristin Galbraith, Bert McLaughlin of Parker, Doug Ricks of Rexburg, and Jim Smith of Rexburg.

PUBLIC HEARING (New Water Base and User Fee Rates): Mayor Ogden welcomed everyone and brought the public hearings to order. He gave a brief review of the water study conducted by Forsgren Associates and the need to raise the water fees the second and final time as part of the bond for the new \$4.1 million water system project. Wendy McLaughlin reported that there were no prior written testimonies submitted.

The mayor called for those in favor of the new water base and user fees. No one testified.

The mayor called for those neutral to the new water base and user fees. No one testified.

The mayor called for those against the new water base and user fees. No one testified.

6:40 p.m. The public hearing ended.

PUBLIC HEARING (Reopen the Current Budget): Mayor Ogden introduced the second public hearing to reopen and amend appropriations Ordinance No. 329_2017 to accommodate extra revenues and expenditures not accounted for in the current budget of \$2,105,000. The mayor explained the \$2,000,000 estimated bond revenue for the new water system, \$50,000 for a sewer extension in conjunction with Showcase Interiors sewer hook-in, \$15,000 water pump repair, and \$40,000 in legal fees. Wendy McLaughlin reported that there were no prior written testimonies submitted.

The mayor called for those in favor of reopening and amending the current budget. No one testified.

The mayor called for those neutral to reopening and amending the current budget. No one testified.

The mayor called for those against reopening and amending the current budget. No one testified.

7:00 p.m. The public hearing ended.

PUBLIC HEARING (Proposed 2018-19 Appropriation Budget): Mayor Ogden introduced the third public hearing of the evening, for the 2018-19 proposed appropriation budget. Wendy McLaughlin reported that there were no prior written testimonies submitted.

The mayor called for those in favor of the proposed 2018-19 budget.

Bruce Arnell testified and asked two questions: How much is the city putting away for water and sewer infrastructure depreciation, and how much is currently in holding to replace and maintain the two systems?

The mayor called for those neutral to the proposed 2018-19 budget. No one testified.

The mayor called for those against the proposed 2018-19 budget. No one testified.

7:30 p.m. The public hearing ended and the regular council meeting began.

RESOLUTION NO. 2018-9 (Affirmation to Adopt Resolution No. 2018-9 New Water Base and User Fee Rates): The council affirmed the adoption of the second water rate fees hike in a year for the new water system recommended by Forsgren Associates. The council regrets the burden the increased fees will place upon citizens but understands the need to provide and maintain an adequate working utility system now and in the future. The water base rate will increase from \$34/month to \$45/month. The user rater will increase 5 cents from \$0.90/thousand gallons to \$0.95/thousand gallons. Resolution 2018-9 was introduced and read in full by Councilman Barrus.

MOTION: It was moved by Councilman Barrus and seconded by Councilwoman Ball to affirm the adoption of Resolution No. 2018-9 on June 14; motion carried. A copy of said resolution is attached hereto marked "Attachment #1."

ORDINANCE NO. 334_2018 (Appropriation Ordinance Amendment): The council adopted Ordinance No. 334_2018 to amend the budget. The council discussed the need to reopen the budget to show bond funds and expenses of \$2,000,000; \$50,000 to extend and repair a sewer line; \$15,000 to repair a water pump; and \$40,000 for increased legal fees. Certified Public Accountant Dana Izatt of Searle and Hart reviewed the amendment and notice.

Ordinance No. 334_2018 was introduced and read by title only by Councilman King entitled:

“AN ORDINANCE OF THE CITY OF SUGAR CITY, IDAHO, AMENDING ORDINANCE NO. 329_2017 THE APPROPRIATIONS ORDINANCE FOR THE FISCAL YEAR BEGINNING OCTOBER 1, 2017; APPROPRIATING ADDITIONAL MONIES THAT ARE TO BE RECEIVED BY THE CITY OF SUGAR CITY, IDAHO, IN THE SUM OF \$2,105,000; DIRECTING THE CITY CLERK TO FILE A CERTIFIED COPY OF THE ORDINANCE WITH THE IDAHO SECRETARY OF STATE; AND PROVIDING AN EFFECTIVE DATE.”

It was moved by Councilman King and seconded by Councilman Barrus to waive reading of the

ordinance on three different days and to place it upon its final passage. Thereupon the clerk called roll upon the motion.

Those voting aye: Councilors Barrus, Waddell, Ball, and King
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 Councilman King and seconded by Councilwoman Ball to adopt this ordinance. Thereupon, the clerk called roll upon the motion.

Those voting aye: Councilors Barrus, Waddell, Ball, and King
Those voting nay: None

Ordinance No. 334_2018 was thereupon declared by the mayor to have been duly passed by not less than two-thirds of the council. The clerk will publish Ordinance No. 334_2018 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. 335_2018 (2018-19 Appropriations Ordinance): The council adopted Ordinance No. 335_2018 for the city's 2018-19 operating budget. The council reviewed and discussed the increased spending over the past few years, and all were concerned. They looked for ways to trim excess spending and used the city's return improvement as a standard. They agreed that other than the code enforcement officer, employee wages would not be trimmed but other areas should be. Cuts were made in several areas, but not as much as Councilman Waddell had hoped (see Attachment #2). He objected to increasing the amount to be transferred from the utility account to the general account while increasing the fee for water. Councilman Barrus reminded the council of how the lawsuit against the city this year has played a major role in the increase.

Ordinance No. 335_2018 was introduced and read by title only by Councilman Barrus entitled:

“AN ORDINANCE ENTITLED THE ANNUAL APPROPRIATION ORDINANCE OF THE CITY OF SUGAR CITY, IDAHO FOR THE FISCAL YEAR OCTOBER 1, 2018 TO SEPTEMBER 30, 2019, 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, 2019.”

It was moved by Councilman Barrus and seconded by Councilman King to waive reading of the ordinance on three different days and to place it upon its final passage. Thereupon the clerk called roll upon the motion.

Those voting aye: Councilors Barrus, Ball, and King
Those voting nay: Councilman Waddell

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 Councilman Barrus and seconded by Councilman King to adopt this ordinance. Thereupon, the clerk called roll upon the motion.

Those voting aye: Councilors Barrus, Ball, and King

Those voting nay: Councilman Waddell

Ordinance No. 335_2018 was thereupon declared by the mayor to have been duly passed by not less than two-thirds of the council. The clerk will publish Ordinance No. 335_2018 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.

MINUTES: Mayor Ogden asked if there were any corrections to the revised minutes of the regular meeting held on August 9, 2018. Each councilor had a copy of the minutes prior to the meeting.

MOTION: It was moved by Councilman King and seconded by Councilman Waddell to accept the minutes as amended; motion carried.

PLANNING AND ZONING (P&Z) COMMISSION REPORT: Chairman Dave Thompson reported that there wasn't a quorum, so they held a work meeting on the following items:

Del Mar Condo Sign: Del Mar's manager has been cleaning up the rental property and installed a new sign. They did not realize they needed a sign permit from the city, and the location of the sign is in question. Del Mar is working on a tight budget and the commission is working with them on correcting the location.

Mission Shoe Building: The setbacks for the building site plan have been discovered to be in error because the engineering scale used was not accurate. Planning and Zoning discussed ways the building could still meet code but not necessarily the Business Park covenants.

Air B&B: No report.

Themed City Report: No report.

Trails Committee Report: No report.

Plat Process: No report.

Design Review Proposed Changes Report: No report.

Land Use Schedule: No report.

APPOINTMENT OF NEW PLANNING AND ZONING COMMISSIONER: Design Review Board Chairman Paul Jeppson was sworn in as the newest member of the Planning and Zoning Commission.

MOTION: It was moved by Councilman Waddell and seconded by Councilman King to confirm Paul Jeppson to the Planning and Zoning Commission; motion carried.

RESOLUTION NO 2018-12 (Authorization of Business Park Lot 10, Block 3): Neil Erickson made a \$25,000 offer on Lot 10, Block 3, of the Business Park. The lot was listed at \$29,900. Mr. Erickson has reviewed the park's Covenants, Conditions, and Restrictions (CC&Rs) and the city's code and is willing to abide by them. The council made a counter offer of \$27,000. Resolution 2018-12 was introduced and read by title only by Councilwoman Ball.

MOTION: It was moved by Councilwoman Ball and seconded by Councilman Waddell to adopt Resolution No. 2018-12, with the counter offer of \$27,000; motion carried. A copy of said resolution is attached hereto marked "Attachment #3."

OLD FARM ESTATES PUBLIC HEARING DATE: The mayor reminded the council that the judge ordered the city to re-do the May 25, 2017, meeting to consider and possibly adopt the Planning and Zoning Commissions's recommendation to approve Lerwill's Old Farm Estates, Division 3, Zone Change Application (see Attachment #4). Judge Moeller has enjoined Councilman King from participating on the application, and Councilman Waddell has stated that he has no intention of participating. Citizen Richard Rembish delivered a letter to the mayor asking that the council not set a date or risk another petition for judicial review (see Attachment #5). Councilwoman Ball asked that the public hearing be set after her deposition on September 5, 2018. However, because of time constraints, the mayor reminded the council the city has an obligation to act and failure to do so would put the city and its citizens in a potentially liable situation. Councilman Barrus agreed that the city should go forward.

MOTION: It was moved by Councilman Barrus to set a public hearing for Thursday, September 13, 2018, at 6:30 p.m. to review and possibly adopt the commission's recommendation. Councilwoman Ball said she would not second the motion. There was no second to the motion. Thereupon the clerk called roll upon the motion.

Those voting aye: Councilman Barrus

Those voting nay: None

Councilors Waddell and King could not vote. Councilwoman Ball abstained. Mayor Ogden used Mason's Rules of Order to declare the vote had passed.

PSI WASTE SYSTEMS CONTRACT: The attorney reviewed the contract and counseled the city to revise the 10-year renewal option to 5 years with a 5 year renewal option. Garbage rates will remain the same for the remainder of this year, which is 2.5% lower than the other bidder rates but will increase to \$7.43 in January of 2019 with a 2.5% increase each year thereafter..

RESOLUTION NO. 2018-13 (Approval of PSI Waste Systems Contract) – Resolution No. 2018-13 was presented to the council.

MOTION: It was moved by Councilwoman Ball and seconded by Councilman Waddell to approve the PSI contract and adopt Resolution No. 2018-13. Thereupon the clerk called roll upon the motion.

Those voting aye: Councilors Barrus, Waddell, Ball, and King

Those voting nay: None

Motion carried. A copy of said resolution is attached hereto marked "Attachment #6."

FIFTH SOUTH WATER LINE: The Fifth South water line is ready to be installed. Developers Ryan and Jeff Lerwill have had the engineering plans reviewed and approved by City Engineer Dick Dyer, and all other easements and warranty documents are in place. The line will connect

with the city's new water line coming north from the Moody Highway. Davis Bacon wages will be paid.

MOTION: It was moved by Councilman Barrus and seconded by Councilwoman Ball to proceed with the Fifth South water line; motion carried.

MAYOR'S REPORT: Mayor Ogden reported on the following items:

Capital for a Day Report: Idaho Governor Butch Otter will be in Sugar City at the Sugar Salem High School tomorrow from 9:00 a.m. to 3:00 p.m. The school will host the event and lunch will be available. Mayor Ogden will be there to support the event. Governor Otter will meet with the high school government class. The Scouts will install flags around town. Everyone is invited to attend.

New Water Tank Rebid Report: Forsgren Associates is working on the rebid for the new well and tank. Only one bid has been received so far.

Idaho Transportation Department Letter of Intent Report: No report.

New Sugar Cube Shop Report: No report.

Mayor's Island Park Meeting Report: The mayor is looking forward to the annual mayor's meeting in Island Park. The event features the meaningful exchange of ideas and networking.

DEPARTMENT REPORTS:

COUNCILMAN BARRUS:

Madison County Luncheon:

COUNCILMAN WADDELL: No report

COUNCILWOMAN BALL:

Tree and Beautification: Several of the city's barrel flowers did not do well this year because of overwatering and poor drainage. Effort has been made to rescue the plants that can be revived and to retire the rest.

August Yard Awards: Kathy Westwood – 108 N Teton; Doug & Margaret Andrews – 304 Palomino; John & Carol Galbraith – 215 S. Fremont; and Mike & Biya Wood – 348 S. Teton.

August Garden Awards: Dwayne & Lynn Bean – 9 Brandon; Jess & Virginia Brown – 106 E. Center; Charles & Karalee Ricks – 100 S. Maple; and Louis & Stephanie Bean – 124 N. Teton.

COUNCILMAN KING: No report.

Meeting adjourned at 9:20 p.m.

Signed: _____
David D. Ogden, Mayor

Attested: _____
Wendy McLaughlin, Clerk-Treasurer

CITY OF SUGAR CITY

RESOLUTION 2018 - 9

BE IT RESOLVED by the Mayor and Sugar City Council that effective October 1, 2018, the rates for the following items for Sugar City residences and businesses shall be as follows:

A. WATER

1. The base rate for water will increase to \$45.00 per month.
2. Usage rate will increase to \$0.95 per one thousand gallons of water used.

UNANIMOUSLY APPROVED AND PASSED BY THE CITY COUNCIL AND MAYOR THIS
14th DAY OF JUNE 2018.

David D. Ogden, Mayor

ATTEST:

Wendy McLaughlin, City Clerk-Treasurer

(SEAL)

X The draft budget continues a three-year expansion of administrative costs far out of proportion with revenue increases. The total of 16 line items under "administration" went from \$76K in 2011-12, to \$138K in 2015-16 and a proposed \$245K for 2018-9. In the last two council meetings I addressed this issue, and am gratified to see movement in the right direction on tonight's draft, the \$245K reduced by \$58,500 to under \$186K. But these 16 line items still cost too much, showing approximately a 100 percent increase over the past five years. I hasten to say that I do not believe any city staff are overpaid for time they work; rather I believe there are too many hours being worked that do not make life better in Sugar City.

23 August 2018
Vaun Waddell

The City of Sugar City, Idaho

Resolution No.: 2018 - 12

“A Resolution to Authorize the Mayor to Execute all Required Sales and Closing Documentation on the Sale of Lot 10 Block 3 in the Sugar City Business park to Neil Erickson.”

WHEREAS, the Council of the City of Sugar City, Idaho has authorized the Mayor to list for sale the lots contained in the Sugar City Business park to any bona fide buyer, including Lot 10 Block 3 of that park; and

WHEREAS, Neil Erickson has made an offer in good faith to purchase the aforementioned lot at a price of \$25,000, with the understanding that the property must be owned prior to being able to qualify for the building to be built; and

WHEREAS, the listing agent, Judy Hobbs of Quest Realty, has provided the buyer with all required disclosures so that the buyer may make an informed decision; and

WHEREAS, the Council of the City of Sugar City, Idaho now desires to formalize this purchase;

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF SUGAR CITY, AS FOLLOWS:

The City Council of the City of Sugar City, Idaho hereby authorizes the Mayor to counter the above-mentioned offer in the amount of \$27,000 and if accepted to execute all of the required sales and closing documentation for the sale of the aforementioned Lot.

PASSED by the Council of the City of Sugar City on this 23rd day of August, 2018

APPROVED by the Mayor of the City of Sugar City on this 23rd day of August, 2018.

(SEAL)

David D. Ogden,
Mayor

ATTEST:

Wendy McLaughlin, City Clerk - Treasurer

MEMO

TO: Sugar City City Council
FROM: Dylan Anderson
DATE: August 23, 2018
SUBJECT: Old Farm Estate Phase 3 Zone Change Application.

The City has received a response from the Court regarding the preliminary injunction sought by the applicants in the Old Farm Estate phase 3 zone change application. Consequently, Council Members Vaughn Waddel and Bruce King will not participate in the deliberations or decision regarding this application. The application is now pending before the City Council. The Council can now choose to vote on the application, further deliberate, or hold another public hearing. The Council can decide what they think is best, but a decision regarding the Old Farm Estate phase 3 zone change must be made.

There is one issue that the Council should know. In placing notice for the original public hearing before Planning and Zoning, the notice may have been placed in front of Old Farm Estate Phase 2 instead of Phase 3. The Council attempted to address any issues with notice by holding a public hearing of their own on July 13, 2017. However, in making its ruling, the Court appeared to invalidate any actions taken after the May 11, 2017 meeting. This would mean that the notice issue the Council attempted to remedy before may continue to be an issue now.

I recommend that the Council hold one more public hearing to assure that all interested parties have an opportunity to be heard, and the Council's decision can be made without any question of procedural defect. The Council has the authority to hold its own public hearing, and I believe that it would be prudent in this case.

The injunction against Councilmember Bruce King does not enjoin the City from action; therefore, the Council must act on the application before it. Mr. King has asked the Court to reconsider its ruling, and requested a stay during that reconsideration. The Court has not granted a stay at this point. Regardless of what the Court chooses to do, holding a public hearing now would not place the City in a position to redo anything should the Court reverse its decision. After a public hearing, and after the Council has considered any new information obtained through a public hearing, it would be appropriate for the Council to begin deliberations and make a decision regarding the application for zone change on Old Farm Estates phase 3.

August 23, 2018

Honorable Mayor and City Councilmembers:

My name is Richard Rembish, and my wife and I reside at 450 S Cutler in Sugar City, Idaho. My home is located approximately 300 feet northeast of the Old Farm Estates Subdivision. I and my neighbors are gravely concerned about the direction this matter of the Old Farm Estates, Division 3, issue is taking. We understand that the Court has recently barred Councilmembers King and Waddell from voting or otherwise participating in deliberations of the City Council concerning this matter. This action was taken without our being notified or made parties to the lawsuit recently filed by the Lerwills.

My concern is this: If this Council moves forward with a hearing on this matter at the next City Council meeting, you will have numerous upset citizens before you opposing any action. They will be particularly upset at the fact that two of their elected representatives have been disenfranchised without any of the neighbors having been made a party to the Lerwill lawsuit or being able to respond to the Lerwills' allegations of bias. Yet because they were not made parties to the Lerwills' lawsuit, they may have no right to appeal the Court's decision.

I understand that Mr. King and Mr. Waddell have asked the Court to reconsider its earlier decision. I urge you as a City Council to defer the scheduling of a public hearing until after the Court has issued a decision on the Motion for Reconsideration. Otherwise, there is a real risk of yet another Petition for Judicial Review of this matter, running parallel to the Lerwills' pending lawsuit. By refraining from scheduling a hearing, you will avoid wasting the City's legal budget and avoid the possibility of yet another Petition for Judicial Review, based upon the fact it was decided by only two members of the Council.

Please do not make this matter any more complicated than it already is.

Sincerely,


Richard Rembish

The City of Sugar City, Idaho

Resolution No.: 2018 - 13

“A Resolution to Approve the Contract Between the City of Sugar City and PSI Environmental Services, Inc., to Provide Garbage Collection Services.”

WHEREAS, the Council of the City of Sugar City, Idaho desires to approve the contract between the City of Sugar City and PSI Environmental Services, Inc., to provide garbage collection services for the City of Sugar City; and

WHEREAS, PSI Environmental Services, Inc. was selected from a total of three (3) proposals during a Request for Proposal conducted by the City of Sugar City, which proposals contained the criteria of History of Company, Client References, Types and Quality of Equipment, and Pricing; and

WHEREAS, PSI Environmental Services, Inc. is desirous of providing this service and has offered the aforementioned contract to be approved and executed; and

WHEREAS, Dylan Anderson, the attorney for the City of Sugar City, has indicated the contract is acceptable for execution;

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF SUGAR CITY, AS FOLLOWS:

The City Council of the City of Sugar City, Idaho hereby approves the contract between the City of Sugar City and PSI Environmental Services, Inc., to provide garbage collection services, including the attached pricing schedule, and authorizes the Mayor to execute said Contract.

PASSED by the Council of the City of Sugar City on this 23rd day of August, 2018

APPROVED by the Mayor of the City of Sugar City on this 23rd day of August, 2018.

(SEAL)

David D. Ogden,
Mayor

ATTEST:

Wendy McLaughlin,
City Clerk - Treasurer