

MINUTES OF REGULAR MEETING
SUGAR CITY COUNCIL
THURSDAY, MARCH 8, 2007

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; Marcie A. Smith, Treasurer; Councilmembers Harold Harris, Walter Deitz, Bruce King and Brad Orme; Scott Lee, City Attorney; Stephanie Blackham, Planning & Zoning Commission; Tom Gallup; Don Rydalch; Paul Lusk; Suzanne Bailey; Vaun Waddell; Verla Moss; Ganene Harris; Eddie Pincock; and Attorney Richard Smith.

The Mayor asked if there were any corrections to the minutes of the regular meeting held February 22, 2007. 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 said minutes; motion carried.

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

Marcie presented the current bills in the amount of \$78,034.93. It was moved by Councilmember Deitz and seconded by Councilmember King to pay the current bills, together with all regular March bills that have not yet been received; motion carried.

CITIZEN INPUT: Marcie Smith reported, as City Treasurer, that all the document requests we have received during the last several months are taking up a lot of time and money. By law, she can't bill it out unless it is two hours or more at a time, and the expense is not included in the budget. It was suggested that Sharon and Marcie identify how much time is being taken. They feel it is bordering on harassment.

Verla Moss presented comments related to the west entrance to town – the restoration of the grain elevator and surrounding property. She thinks the \$364,000 could be spent more profitably on other things if we just got rid of the elevator. She was concerned about how long the murals would last if they were painted on. Mrs. Moss would be willing to go house to house and make another survey to see how many people are in favor of preserving the elevator.

PLANNING & ZONING REPORT: Stephanie Blackham addressed the Council.

Cell Tower Ordinance: Stephanie reported that P&Z has the cell tower ordinance

almost done. They have just a little more research to do and will take it to public hearing soon.

Lois Webb's Letter: P&Z will make a decision on Mrs. Webb's pool issue next Thursday. The decision they will make on this issue will be whether Mrs. Webb is in compliance.

Title 8, Design Review: Stephanie reported the Design Review Ordinance has been turned back to P&Z. Councilmember King said he would send her the latest draft of Design Review – the one that went to public hearing on December 6, 2006. Stephanie requested a master electronic file as well as a hard copy of it. The Council asked that Councilmember King attend the P&Z meeting on March 15 and report the Council's concerns on Title 8. Sharon was asked to e-mail Stephanie a copy of the February 22 minutes, which includes the Council's general comments on Design Review. Bruce will compile each Councilmember's notes and get them to Stephanie..

Subdivision Ordinance: Stephanie asked the Council if they had done anything with the Subdivision Ordinance, which P&Z sent to them in May of last year.

Title 9, Chapter 6: Stephanie noted that Title 9 is on the agenda tonight. P&Z will definitely be working on Title 9.

ORDINANCE #266 ON INITIATIVES: Tom Gallup presented remarks and attachments, which he requested be filed in the official minutes. The said remarks and attachments consisting of four pages are attached hereto, marked "Exhibit 1." Mr. Gallup feels Ordinance #266 doesn't follow State statute and asked that it be repealed.

DISCUSS COMPLETION OF THE SOUTH ENTRANCE PROJECT AND STATUS OF GRANT APPLICATIONS, ETC.: Don Rydalch addressed the Council on three separate grants. A copy of Mr. Rydalch's handout is attached hereto, marked "Exhibit 2."

- (1) South Entrance Grant. Mr. Rydalch visited with David Stephenson of the Idaho Department of Lands, who gave recommendations for placement of trees. The trees as a whole are planted too close together. He said to move the spruce trees off the site. The mulch is not supposed to be up against the trees. It should be back about six inches. There is a significant problem with weeds, and they should be dealt with. The trees are staked too tightly. The care now belongs to the City.
- (2) City Hall Remodel Grant Application with CHC in Idaho Falls. Mr. Rydalch submitted the grant on January 15, 2007. The deadline was February 23, but there probably will not be a decision until the end of this month.
- (3) Potential Grant for West Entrance. Mr. Rydalch said the proposed project would be \$364,000. We will know late fall next year if the project is approved. Verla Moss expressed concerns about the painting on the elevator and it needing to be done again in ten years or so. It was the consensus of the Council that Mr. Rydalch should pursue the project on artistic design. On the engineering design, the Council needs to know the sequence of what is going to be done and how it is going to be done.

DEPARTMENT REPORTS:

COUNCILMEMBER HARRIS: Harold reported he had driven the streets and there is some major crack repair to be done. We can't get it all done this year with the budget we have.

Storm Drains: Over the years, some of the drains have never been blasted with high pressure water to lessen materials that have collected on the drain walls, which have sealed them. If this process is not successful, three of the drains may need to be replaced at a cost of \$5,000 to \$6,000 per drain.

COUNCILMEMBER DEITZ: Walter reported we bought a main sewer lift pump, which is being used as a backup. We have the water system up and running the way it should be.

COUNCILMEMBER ORME:

Easter Egg Hunt: Brad reported the Easter Egg Hunt would be Saturday, April 7. He will give Sharon a firm time and it will be included in the April newsletter.

Arbor Day: Brad reported the 27th of April is Arbor Day and he will be working with the Tree Committee on activities for the day.

Breakfast and Summer Recreation: Brad reported last year we decided to have a more expanded celebration on the day of the annual breakfast. We decided to have a parade and need to have a parade director to organize it. It is our tradition that we have the breakfast on or close to the 24th of July. The Mayor suggested we join with the school district on their homecoming parade, because we can't do our parade on the same day that St. Anthony does theirs. Brad will pursue the matter with the school district.

COUNCILMEMBER KING:

Spring and Fall Cleanup: The Council decided on dates for spring and fall cleanup. Spring cleanup will start May 14, and fall cleanup will start October 8. Bruce requested an entry be included in the April newsletter inviting residents not to pile stuff in the alleys after cleanups are complete.

Meeting with P&Z Commission on March 15: Bruce reported that he plans to get the finalized minutes with the Council's general concerns to Stephanie Blackham. When he gets individual comments from councilmembers, he will carry them to the Planning and Zoning Commission meeting next week. At the meeting, he will reaffirm the Council's support of the concept of design review. He will try to get an electronic copy of Title 8 to them.

Attachments to Minutes: Bruce feels that minutes from Sharon should include attachments, so councilmembers can review them.

Title 9, Chapter 6, Zoning Districts, Maps: Bruce reported that P&Z doesn't want the Council to do the same thing it did with Title 8, that is, hold it a long time.

Comprehensive Plan: Bruce feels it is important to hear from Jan on getting the master electronic files for the comprehensive plan. The Mayor said there would be a definite impact area drawn, and we are going to be expected to sign an agreement that we will not invade these impact areas. Bruce feels it might be useful to invite the new Planning & Zoning Commission to review the comprehensive plan with an eye toward streamlining it. This doesn't need to be done right away, but it would be a useful way for them to better learn the comprehensive plan. He still feels we ought to revise the implementation tables to read in terms of priorities rather than in terms of specific dates. We are so behind in many of the stated times of the implementation tables. The Mayor said that as part of the scope of work for the new planning consultants for the county and for the two cities he has asked the consultants to review the comprehensive plan.

Web Site: Bruce reported he is still trying to get a new Web site address. Currently our Web address is "sugarcityidaho.govoffice2.com." He feels it is important to send the link to P&Z before we announce it to the city at large. He recommends we announce the link to the city in our April newsletter. Attorney Lee suggested we keep both Web site addresses.

City Logo: At the Council's direction, Bruce reported he has been working on getting the City logo added to our Web site. It will cost \$95 to have the Web designer do it. It was the consensus of the Council to have him go ahead.

Adobe Software: Bruce feels it is important to have Adobe software so we can place our approved minutes on the Web site. He will show Sharon how to do it. He said the

software costs between \$200 and \$300. It was the consensus of the Council that Bruce spearhead obtaining and installing the software for Sharon and Marcie, etc.

Highways: Bruce expressed concern about having sufficient money for current and future road upkeep. The Mayor said we are spending every bit of the road money that comes in for road work. Walter said we are doing everything we can with the money we have.

Annexations: Bruce said we have been waiting to see how the annexation dispute turned out. He said he wanted to determine from the Council where we stand with the annexation matter and with Title 9.

MAYOR'S BUSINESS:

Tree City USA: The Mayor reported Sugar City is a 2006 Tree City U.S.A. recipient.

Business Park: The Mayor reported that the potential business park is moving fast. He showed a lady from the Department of Commerce the potential site and she was excited. They provide the \$500,000 loan from the Department of Commerce. He reported that the County is favorable to trading wetlands for the business park. They would provide the land for the business park and become a third partner in the development of the project. The other two partners are the City of Sugar City and the East Central Idaho Development Company. He talked about two or three businesses interested in developing at the business park.

City Attorney: The Mayor reported we have three attorneys interested in the position. He would like us to interview them on March 22 in preparation for finding a replacement for Scott.

9:00 p.m. Attorney Richard Smith arrived. The Mayor entertained a motion to go into executive session.

EXECUTIVE SESSION:

9:05 p.m. It was moved by Councilmember King and seconded by Councilmember Harris, pursuant to Idaho Code 67-2345(1) (a), (b), (e) & (f), that we move into executive session to discuss hiring, personnel, competitive commerce and litigation matters. The Mayor called for a roll call vote:

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

Those voting nay: None

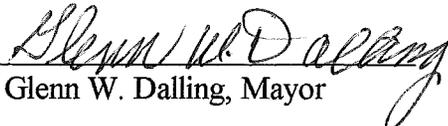
Thereupon, the Mayor declared the motion passed.

9:35 p.m. Councilmember Brad Orme was excused.

Discussions during executive session were on competitive commerce and on litigation related to annexations and personnel issues.

10:45 p.m. The executive session ended and the regular Council meeting adjourned.

Signed:


Glenn W. Dalling, Mayor

Attested:


Sharon L. Bell, Clerk

Please include the full text of our remarks and attachments into the official minutes of this meeting
– March 8, 2007.

We were told at the February 22nd City Council meeting that Ordinance 266 follows state statute. That was a misleading statement. We are strongly opposed to Ordinance 266 for the following reasons:

1. A letter from the City Attorney to Jan Gallup states that a public hearing will be conducted before City Council approves an ordinance regarding initiatives and referendums. (See attachment 1.)
2. An initiative or referendum is a check and balance of a governing body by the people. We see Ordinance 266 giving the power to a city council to hinder, abuse or disqualify a petition. Those responsible for legislation should not have control over the rights of the people to question and seek to amend or repeal that legislation if they so desire.
3. An initiative or referendum is addressed to the secretary of state at the state level, the county clerk at the county level and it should follow that it is addressed to the city clerk at the city level and not the city council.
4. State statute requires a review of a petition by the attorney general at the state level and prosecuting attorney at the county level. Ordinance 266 does not address a certificate of review from the city attorney. A mandatory review by the city attorney is an essential part of filing a petition.
5. State statute does not provide that a legislative body controls an initiative or referendum ballot. Under state statute the attorney general at the state level and the prosecuting attorney at the county level provide ballot titles. Specific guidelines for ballot titles should be addressed in Ordinance 266 following state statute. (See attachment 2.)
6. A ballot title is the foundation of an initiative or referendum. City council should not be allowed to discuss or deliberate on a ballot title. We see the conflict of interest now with Councilman Harris and Councilman Orme regarding design review. How can petitioners expect councilmen to act impartially when an initiative or a referendum is seen as an attack on their judgment of what is best for the city? Mr. Harris's letter in the newspaper last week is a example of a councilman's inability to remain impartial. (See attachment 3.)
7. The ordinance does not allow for appeal by a person dissatisfied with the ballot title or short title.
8. Guidelines for arguments and rebuttals of initiatives and referendums are not addressed.
9. Under 1-9-9-2 of the ordinance, what is the definition of "substantially"? We believe members of a city council may not give up their position on the points for which, an initiative may have been started. If city council passes an ordinance that is "substantially" the same as the initiative, but it is not exactly the same, why should an initiative be declared null and void? City council will have contravened the work of petitioners. That is not right!

We respectfully request that Ordinance 266 be repealed and a new ordinance be written that follows provisions in state statute. Long time residents and good citizens of this community will see the manipulation allowed a city council in Ordinance 266 to hinder, abuse or disqualify initiatives and referendums.

Submitted by Tom and Jan Gallup, citizens of Sugar City, Idaho

ATTACHMENT 1

Law Offices of
E. SCOTT LEE, PLLC

30 South 2nd West
PO Box 791
Rexburg, ID 83440

Telephone: (208) 356-5493
Facsimile: (208) 356-5496
e-mail: escottlee4law@aol.com

February 12, 2007

Jan Gallup
309 South Austin Ave.
Sugar City, Idaho 83448

Dear Jan:

While reviewing the statutory requirements for your initiative I reviewed Idaho Code § 50-501 which requires cities to pass an ordinance to allow initiatives and referendums and to set out the procedure for so doing. I then went to the Sugar City Code to review our ordinance and discovered that we do not have one. I conferred with Sharon and she also reviewed the records and we are unable to find that Sugar City has ever enacted such an ordinance.

I then visited with the Attorney's General Office regarding this situation. We discussed the issue and it was determined that an initiative cannot be processed until an ordinance is in place. Consequently, in our last city council meeting I set forth the problem that we have for lack of an ordinance. The city has asked me to immediately draft an ordinance and have it ready for their next meeting. At that time they will review the ordinance and set it for a public hearing so that it can be put into effect as soon as possible. At that time, the city will be able to take the necessary steps for your initiative request.

Sincerely,



E. Scott Lee

ESL/mb

cc: Sugar City

ATTACHMENT 2

IDAHO STATE STATUTE:

The attorney general shall provide ballot titles as provided for below and return one (1) copy of the petition to the secretary of state, with its ballot title.

(b) A copy of the ballot title as prepared by the attorney general shall be furnished by the secretary of state with the approved form of any initiative or referendum petition, as provided herein, to the person or persons or organization or organizations under whose authority the measure is initiated or referred.

(c) The ballot titles shall be used and printed on the covers of the petition when in circulation; the short title shall be printed in type not less than twenty (20) points on the covers of all such petitions circulated for signatures.

(d) The ballot title shall contain:

(i) Distinctive short title not exceeding twenty (20) words by which the measure is commonly referred to or spoken of and which shall be printed in the foot margin of each signature sheet of the petition.

(ii) A general title expressing in not more than two hundred (200) words the purpose of the measure.

(iii) The ballot title shall be printed with the numbers of the measure on the official ballot.

(e) In making the ballot title the attorney general shall, to the best of his ability, give a true and impartial statement of the purpose of the measure and in such language that the ballot title shall not be intentionally an argument or likely to create prejudice either for or against the measure.

(3) Any person dissatisfied with the ballot title or the short title provided by the attorney general for any measure, may appeal from his decision to the supreme court by petition, praying for a different title and setting forth the reason why the title prepared by the attorney general is insufficient or unfair.

Consider result of design ordinance

Recently a petition has been circulated to require an election forcing the adoption of a section of our city code labeled Title 8 "Design Standards."

This section only has restrictions on potential business' wanting or considering coming to Sugar City, and does not affect single-family homes here. It will, if passed, restrict the design, the colors and the materials used in the businesses and take away the right of that business that must pay for the construction of the design for its needs. Single-family communities give very little opportunities for job creation to help us keep our children in our midst.

We as a City Council are doing everything we can to encourage new business opportunities here. We are working toward a new business park, encouraging the now defunct Sun River Estates owner to meet with the city to see what we as a community could do to help get it back on track with its business property as well as its residential area. The mayor is now the president

**HAROLD
HARRIS**

■ ■ ■
Another view

elect of the board of Madison Economic Partners, with Brad Orme as a member of its board. The sole purpose of MEP is to generate business and economic development in our county. We have had extensive meetings with East Central Idaho Planning and Development Association, which organization raises money for grants and loans for communities such as ours with our limited tax base.

Because we are a bedroom community with a \$75,000 homeowners' exemption on its taxes, we struggle to continue to improve our city, but without a business tax base, the burden falls directly on the shoulders of single-family dwellings.

Before deciding to vote for the adoption of an ordinance that can definitely discourage business interest here,

please read and study the complete "Design Standard" as it is now written that you are being asked to support. To my knowledge not one person on the committee that helped formulate this document has ever carried a commercial plan through a building permit process that have these types of restrictions. I have done it many times and have fought the discouragement potential business' have experienced. We have asked the Planning & Zoning on many occasions to soften the restrictions, not eliminate a design-review process that is important for the city to have input, but at least encourage, not discourage, new business. Please consider the end result that by adopting the section Title 8 "Design Standards" as they are now written would create.

The opinions and concerns expressed about are mine as a general contractor and sitting City Council member, and I am not speaking for the City Council as a whole.

Harris is a member of the Sugar City Council.

REPORT TO CITY COUNCIL**8 MARCH 2007****A. Final Report on Entry Grant**

1. Read Feb. 26 letter from David Stephenson, Idaho Dept of Lands (Mayor has copy)
2. Read from Dec. 13th letter from same source.....Recommendations and Final Graph
3. Financial report from Marcie

B. City Hall Remodel Grant Application with CHC in Idaho Falls

1. We did submit a grant application to CHC as of last Jan. 15 .
2. The deadline for all applications was Feb. 23.
3. Possible contact people should be ready to fully discuss the project if contacted
Harold Harris, Mayor Dalling, Bruce King.....all should have copy of the application

C. Potential Grant for Elevator

1. Status report.....talks with Bill Shaw in Rigby Office.....no "intent to file" form yet
Should proceed with plans in two areas.....want to have things in place by late fall
2. Artistic Design (this is the key to the whole project)

Can I have the authority to visit with Worrell / Whitworth on the plans they put forth
Will try to seek some Quick Art funds to help pay for someone to put together a design

3. Engineering Design Leg Work (sequence of what will be done....how it will be done)
Can you help me with where to find answers

Harold put together some good ideas as we put together some preliminary costs
Is Dick Dyer one who can help ?

Other ideas on who or any part of this proposed project