

MINUTES OF REGULAR MEETING
SUGAR CITY COUNCIL
THURSDAY, FEBRUARY 22, 2007

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; Councilmembers Harold Harris, Walter Deitz, Bruce King and Brad Orme; Stephanie Blackham, Planning & Zoning Commission; Jan Gallup; Tom Gallup; Vaun Waddell; Paul Lusk; Dirk Harris, Ganene Harris; KaraLee Ricks; Sharee Palmer; Eddie Pincock; Sharla Pincock; Deputy Cameron Stanford; Sheriff Roy Klingler; and Alan Dunn and Vern Thurber, Sugar Salem School District. Councilmember Walter Deitz was excused for part of the meeting.

The Mayor welcomed everyone and stated that we will no longer be tape recording our minutes, just the ones that we are required to tape by law.

The Mayor asked if there were any corrections to the minutes of the regular meeting held February 8, 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 the minutes of February 8, 2007; motion carried

ORDINANCE NO. 266:

Councilmember Orme introduced Ordinance No. 266 entitled:

“AN ORDINANCE ADOPTING AND SETTING FORTH THE RIGHT OF INITIATIVE AND REFERENDUM OF THE RESIDENTS OF SUGAR CITY, THE PROCESS FOR INITIATIVE AND REFERENDUMS, AND PROHIBITED ACTS IN THE INITIATIVE AND REFERENDUM PROCESS; AND PROVIDING WHEN THIS ORDINANCE SHALL BECOME EFFECTIVE.”

It was moved by Councilmember Deitz 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: 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 Harris and seconded by Councilmember King 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. 266 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. 266 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.

CITIZEN INPUT: Sharee Palmer addressed the Council regarding an item on the January financial report and was advised that it had been resolved. She feels the Council's handling of the lawsuit dealing with the annexation of potential commercial property southwest of town is not in the best interest of the City.

JAN GALLUP: Jan Gallup addressed the Council. She requested that her remarks be made part of the official minutes. A copy of said remarks is attached hereto, marked "Attachment 1."

PLANNING & ZONING REPORT: Stephanie Blackham addressed the Council.

Holly Harrison (First Street Early Learning Center): Stephanie reported Holly Harrison came in for a home business license. P&Z said she needs a special use permit and referred her back to Sharon for the application form.

Lois Webb (Fun in the Sun Swimming Lessons): Mrs. Webb presented a letter to P&Z and said she will make adjustments to her swimming pool business in order to comply with our present ordinance. No decision was made by P&Z and Stephanie will contact Mrs. Webb.

Stillman Subdivision (Old Farm Estates): Stephanie discussed preliminary plat applications and the fact that Eddie Pincock needs to file one. He brought in the plans that they submitted three years ago. What he did when he came to P&Z last week was a pre-application. He has been given the preliminary plat application. P&Z will send him a letter as to what he needs to do now. Stephanie asked permission to have City Engineer Dick Dyer attend their meeting on March 1 so they can discuss the impact of the Stillman subdivision.

Application Forms: Jan Gallup asked permission to address the application forms. She said the applications she worked on went hand in hand with the ordinance revisions that P&Z was working on. All of the ordinances that have been revised have an application to go with them.

Cell Tower Ordinance: Stephanie reported the cell tower ordinance would be the focus of P&Z's meeting on March 1. They would like to have a public hearing the first Thursday in April. Stephanie said Guy Smith contacted her and wanted to know if the moratorium on cell towers had been lifted. He also contacted the City Clerk who told him the moratorium had expired, but the City Council would likely discuss it at tonight's meeting.

Ordinance Revisions: Stephanie expressed concern about the ordinances that P&Z had public hearings on last year; i.e., Title 9 Chapter 6, Zoning Districts—impact area, zoning map, definitions—and Title 10, Subdivision Ordinance; and the fact that the Council has not acted on them yet.

P&Z Agendas: Stephanie requested that Bruce King, the Council's liaison to P&Z, call and officially ask to be put on their agendas for items he would like to discuss with P&Z.

SHERIFF ROY KLINGLER -- 911: Sheriff Klingler invited the Council to come and observe what happens at the dispatch center. He explained the system. They are working on putting together an advisory committee and wanted to make the City aware that they need one

representative from the Council on that advisory board. Funding of the program was discussed. The 911 funds are received from the \$1 per month per line assessment on telephones. The funds come into the County and are used specifically for emergencies. Sheriff Klingler expressed concern that homes have visible house numbers on them for emergency services. Sheriff Klingler will notify us when we need to appoint a representative and he will send us a copy of the resolution. He expressed appreciation for the working relationship he has with Sugar City. The Mayor thanked him for coming to our meeting.

ALAN DUNN – SPECIAL LEVY SCHOOL DISTRICT: Sugar-Salem School Superintendent Mr. Alan Dunn addressed the Council. Accompanying him was Finance Officer Vern Thurber. Mr. Dunn explained that a levy is a way for the taxpayers to fund education. He approached the school board about asking the community to pass another plant facility levy on May 8. There might possibly be \$400,000 to \$500,000 for five consecutive years made available through passing a bond. The state will pay back the school district approximately 25% of the bond. The taxpayers would pay approximately \$230 per year on \$100,000 of assessed property. Mr. Dunn wanted to make the Council aware of the school board's plans to pass such a plant facility levy or bond to aid in the upkeep of the district's existing buildings and to possibly add portable classrooms. The Mayor expressed appreciation for Mr. Dunn's good work with the school district.

7:50 p.m. Councilmember Deitz was excused.

DISCUSSION ON TITLE 8 (DESIGN REVIEW): The Mayor led a lengthy discussion on Title 8. The Council talked in terms of meeting with the Planning & Zoning Commission to present some general comments and ideas to them. He asked the Council to respond in general to Title 8. He said we would work with the latest revision, which was presented at our public hearing on December 6, 2006.

COUNCILMEMBER HARRIS: Harold expressed concern that the restrictions in Title 8 will deter people from developing in Sugar City. He is in favor of design review but we need to soften the restrictions to make it encouraging rather than discouraging for businesses to come here. He doesn't feel a design review board would have the expertise to make decisions that would overrule licensed engineers and architects.

8:40 p.m. Councilmember Deitz returned.

COUNCILMEMBER DEITZ: Walter feels we need to have design review, but that it should not be too restrictive. He isn't concerned that the City needs to tell people what kind of trees to plant and where. He is concerned about placement of trees and berms, however. He isn't against having a design review board as needed. He is concerned about finding someone willing to do it. He doesn't feel they should review what engineers and architects have expertise in, and feels that the main focus of design review is to meet certain building codes.

COUNCILMEMBER ORME: Brad discussed specific areas: Title 8-5-3 (signs); Title 8-5-4 is too detailed and could be more user friendly; and Title 8-5-5 should be taken out. Brad feels we need design review but he is concerned that, if passed as it is, it would hinder development in town. He feels it should be less restrictive.

COUNCILMEMBER KING: Bruce expressed three points concerning Title 8: “(1) The design review committee and the Planning & Zoning Commission did good work in preparing Title 8. It has been a helpful document. (2) Even so, the proposed ordinance can and should be simplified, clarified, and made less restrictive. Government tends to over regulate. I have seen it at the local, state and federal levels. (3) In my mind, safety and functionality are integral parts of design review. I do not know how a design review ordinance can exclude them. To me, safety and functionality considerations strengthen the validity of design review, giving it more credibility. That said, I would be glad to consider a design review ordinance restricted to aesthetics if the Planning & Zoning Commission thinks best.”

The Mayor asked Planning & Zoning Commissioner KaraLee Ricks to express her views.

KARALEE RICKS: KaraLee said we have to respect each other’s differing opinions. The Mayor asked Councilmember King to make the final presentation to P&Z on Title 8. He asked KaraLee if P&Z would like access to the Council’s notes, and she said they need the Council’s input, which would be helpful to have in writing. The Mayor said the Council is not against having a design review ordinance. KaraLee feels we need to pass something even though it is not perfect. We need to do the best we can and move forward. The Mayor said he would make sure KaraLee gets the comments. She said as a member of P&Z, the members of the design committee put a lot of work and effort into design review. We need to start somewhere with something and then change if we have to. The Mayor thanked her for her comments.

MAYOR’S BUSINESS:

Cell Tower Discussion: The Mayor led a discussion on cell towers. KaraLee reported we have no cell tower ordinance yet. P&Z is concerned about types of cell towers. They have been working on the cell tower ordinance and hope to take it to public hearing on April 1. If the Council approves what P&Z does, the Council does not have to have a public hearing on it.

MOTION FOR MORATORIUM ON CELL TOWERS: It was moved by Councilmember King and seconded by Councilmember Deitz that we place a moratorium on the construction of cell towers until May 1, 2007. The Mayor called for a roll call vote:

Those voting aye: Councilmembers King and Deitz

Those voting nay: Councilmembers Harris and Orme

Deciding vote: Mayor Dalling voted aye

Thereupon, the Mayor declared the motion passed.

EXECUTIVE SESSION:

9:40 p.m. It was moved by Councilmember King and seconded by Councilmember Harris, pursuant to Idaho Code 67-2345(1)(b) & (f), that we move into executive session to discuss personnel and to consider 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.

Discussions during executive session were on personnel issues and on pending litigation concerning annexations.

10:15 p.m. The executive session ended and the regular Council meeting reconvened.

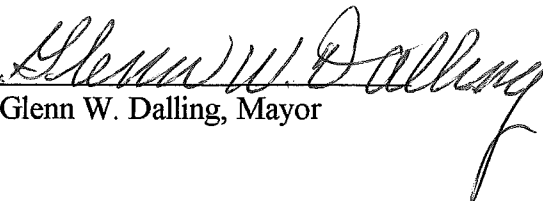
MOTION ON RESIGNATION OF CITY ATTORNEY SCOTT LEE: It was moved by Councilmember King and seconded by Councilmember Harris that in view of attorney Scott Lee's resignation letter dated February 21, 2007, we direct Mayor Dalling to investigate the going rates for and responsibilities of city attorneys and then advertise for one; motion carried.


Title 8: The Mayor asked Councilmember King to take the Council's suggestions to P&Z on design review. Bruce agreed to relay to P&Z all the general points the Council made and will hand them specific comments of individual councilmembers.

P&Z Agendas: Councilmember King proposed that there be a permanent entry on P&Z agendas midway or toward the end of the agendas that reads: "Council liaison to the Planning & Zoning Commission—Report on City Council discussion and actions." The Council unanimously agreed.

Comprehensive Plan File in Jan Gallup's Possession: Councilmember King feels it is important to not only obtain a Portable Document Format (PDF) file of the Sugar City Comprehensive Plan from Jan Gallup but also the master Microsoft Word file and the master implementation table file(s) – which he believes was created in a different program from Word – from her. He said that he and Sharon cannot find the latest master files of the comprehensive plan, and we need them to ensure we possess the latest (correct) electronic copies of the plan and to potentially save us a lot of rekeying. Since the City has paid Jan for her services and since the plan belongs to the City, Bruce believes she should readily turn over the files to us. Bruce does not feel that it is ethical for her to insist on further payment, but if she does, he is willing to do so because of our need. **MOTION:** It was moved by Councilmember King and seconded by Councilmember Harris that we authorize our attorney Scott Lee to send a letter to Jan Gallup requesting the master Microsoft Word file and the master implementation table file or files of the comprehensive plan and to pay Jan for them if she insists; Councilmember Deitz opposed; motion carried.

Meeting adjourned at 10:30 p.m.

Signed: 
Glenn W. Dalling, Mayor

Attested: 
Sharon L. Bell, Clerk

City Council Meeting, February 22, 2007

I request that these remarks be part of the official minutes of the meeting.

Initiative and Referendum Ordinance: As the contact person for the Title 8 initiative I received a letter from the city attorney stating that a city ordinance has to be in place before an initiative or referendum can be submitted. I respect the legal aspects faced by the city and appreciate the timely manner in which the city clerk and Mr. Lee answered my questions. I do not believe there will be enough time to get the required signatures on a petition for Title 8 once an ordinance is in place. Therefore, based on provisions under state statute and city code, I presented copies of the Title 8 initiative to the planning and zoning commission asking that they consider its merits.

I believe city council still has a responsibility to follow through with an initiative and referendum ordinance.

After listening to the recording of the last city council meeting, I am inclined to believe that city council discussed the Title 8 initiative and the initiative and referendum ordinance in executive session. There is not pending litigation regarding an initiative, the general public is not aware of probable litigation and I am no longer personnel, so I cannot understand what specific provision was used to discuss this in executive session. The directive from the Attorney General regarding executive sessions is, "If in doubt, open the meeting."

Design Review: I would like to touch on two major changes in the initiative ordinance.

1. There is not a design review board. Basically, the planning and zoning commission, with help from the city engineer as needed, perform the duties for design review and then make a recommendation to city council.
2. The original "Design Review" chapter is divided into shorter chapters. Chapters are now listed as: Design Review; Site and Building Design; Landscape, Buffer Areas and Open Space; Design Standards; and, Sign Regulations.

It is not my intent to complicate or hinder the process of revising design review. If anything, I hope the changes help bring the ordinance closer to being accepted by planning and zoning, city council and the citizens of this community.

City Applications: At the planning and zoning meeting held February 15th, there was discussion about a plat application. Ray Barney stated that he was given a copy of the preliminary plat application I prepared, but Mr. Pincock was told that the city does not have a preliminary plat application. It was stated that the city is hesitant to use the preliminary plat application prepared by me.

For the record, I do not have a copyright on the applications submitted to the city. Some of those applications need revisions. I have offered to go through the applications with the city clerk and make any changes, put the applications in PDF format and copy them to a CD for a fee of \$100 or approximately \$5 an application. This would allow the city to put applications on the city website. No one has responded back to me.

It doesn't seem quite right to me if the city has taken a PDF copy of the comprehensive plan from a non-profit citizen's website to use on the city's website without talking to me, at the very least as a courtesy. It cost me \$425 to set up the citizen's website so the comprehensive plan could even be posted. If asked, I would have provided a copy of the comprehensive plan in PDF format to the city for a small fee.

Meeting Agendas: The city council liaison to the planning and zoning commission has the same responsibility as a citizen or a developer to be listed on the planning and zoning meeting agenda if he intends to make any official statements to the commission. The public has a right to know what agenda items he will be presenting. Handing a note to the planning and zoning chairman during the February 15th meeting, and requesting special time without being on the agenda doesn't meet the intent of the state open meeting laws and caused a new, inexperienced chairman of the planning and zoning commission to violate those laws.

*Submitted by Jan Hellup
2-22-07*