

MINUTES OF REGULAR MEETING
SUGAR CITY COUNCIL
THURSDAY, MAY 11, 2006

Presiding: 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, Walter Deitz, Bruce King and Brad Orme; Sharee Palmer, Planning & Zoning Commission; Scott Lee, City Attorney; Dick Dyer, City Engineer; Jan Gallup; Don Rydalch; and Garry Jeppesen.

The Mayor asked if there were any corrections to the minutes of the regular meeting held April 27, 2006, and the special meeting held May 4, 2006. Each councilmember had a copy of said minutes prior to the meeting. It was moved by Councilmember Deitz and seconded by Councilmember Orme to accept the minutes of April 27, 2006; motion carried. It was moved by Councilmember Harris and seconded by Councilmember King to accept the minutes of May 4, 2006; motion carried.

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

Marcie presented the current bills in the amount of \$38,454.90. It was moved by Councilmember Deitz and seconded by Councilmember Orme to pay the current bills, together with all regular March bills that have not yet been received; motion carried.

CITIZEN INPUT: There was no citizen input.

SWEET HAVEN APARTMENTS – HOOKUP FEES AND USER FEES:

Water: Councilmember Deitz led a discussion on the hookup fees that Sweet Haven Apartments has paid. They paid for one sewer hookup fee and one water hookup fee, and for three water meters (one for each building); but they are being charged user fees for 16 apartments. Walter proposed we only charge them user fees for one water meter for each building. The monthly water meter charge is \$23.57 for a one-inch line meter charge to pay off the bond, and they pay \$0.62 per 1,000 gallons for water. A discussion was had on reducing the base fee citywide on applicable lots or properties. Attorney Lee feels it would be worth a call to bond counsel and ask him whether it is permissible to do it. Walter said we should put off making a decision until we talk to the bond attorney. Attorney Lee will contact him. A discussion was had on Councilmember Harris' conflict of interest and the fact that he may not be able to vote on

this issue.

Sewer: Walter discussed the sewer charges. The way the ordinance is written, we charge sewer per equivalent user. They are being charged a monthly \$16.38 base fee plus \$1.63 per 1,000 gallons for each of the 16 apartments. Walter feels that this charge is justified.

Garbage: Walter reported they are being charged \$10.50 per month for dumpster service, plus \$1.60 per month for the spring and fall cleanup fee, for 16 units. They only have one dumpster, which costs the City \$99.51 a month. Marcie reported they haven't been paying their garbage bill for the past three months. Discussion was had. The Mayor asked Councilmember King to contact PSI and look into either having the dumpster dumped twice a week or getting two dumpsters for the apartments, and bring a recommendation back to the Council.

SOUTH ENTRANCE PROJECT REPORT: Don Rydalch reported on the south entrance. Trevor Pope will review the setup on the sprinkler system with Danny, with the City taking that operation over Monday. A rejected tree has been given to the City. He reported the project would be finished this Saturday. Then we will need to get all the bills in and hopefully we can get those paid in June as per our bid specifications that we sent out. We told them they would be paid the 10th of the month following completion. The City will want to keep the original invoices but he will need a copy of them to send in with the final report, as well as all the check numbers for which payment is made. His plan is to have the final report in to the State by June 30th, at which time the City can get reimbursed. The City is into it for a \$660 cash match for sprinkler parts. The rest of the City's share of that \$10,000 will come from the employees' services. Mr. Rydalch was thanked for his good work on the project.

WEST ENTRANCE PRESENTATION: No presentation given.

ENGINEER'S REPORT: Dick Dyer addressed the Council.

Bike Path in Relation to Sewer Line: Councilmember Deitz drew on the blackboard a sketch showing the bike path in relation to the sewer and water lines. The sewer line is laid out of our nine-foot easement and goes onto Garry Jeppesen's property. It will cost a lot of money to move the line. The Mayor reported there is a question of whether or not we want to move the sewer line, what we want to do with the bike path that goes over the top of it, and what we want to do about where it goes through Jeppesen's property. He turned the time over to Dick Dyer.

Dick reported the issue has been a matter of discussion since the work was done. We talked about maybe moving the line, having a trade with Garry Jeppesen for a better access and some additional room to maneuver to the grain bins, and the City looked at buying the parcel back. Part of the problem was the change in ownership that took place with the developer as to who was responsible. The way it was left a couple of years ago was that the City was going to allow him to have access to the grain bins from the south across the piece of City property between the grain bins and 1st South. They would allow him to continue to use that for access until such time as the pipeline encroachment matter could be addressed. Dick suggested we provide Mr. Jeppesen an easement on the south side that would offset the encroachment on the east side. The Mayor said the contractor is responsible for the encroachment, not the City.

Jeppesen's Access over Bike Path: Dick reported the bike path has triggered renewed discussion of the sewer line issue because if that line is in fact going to be moved, it would be best to move it now before we start putting pavement over it. He doesn't have any problem with the bike path being over top of the water line or sewer line. We have them under streets all over town; it seems to him there is a lot of expense in moving the line. It is expense that is the

responsibility of the contractor and it is a benefit that the City has coming, but he feels it would be better spent in other things. The line buried down there is not bothering anybody; but, of course, we are encroaching on Garry's property and that issue needs to be resolved.

The Mayor reported Garry Jeppesen has been accessing the north side of the property and asked if he ever accessed it from Railroad Avenue. We have two issues. One is the pipe and the other is the access. Dick said the bike path could be beefed up to make it crossable by the trucks if that's where it needs to be. Technically that is his legal access off of Railroad Avenue. The Mayor said if we have the contractor fix the access to 1st South so it's very suitable and not damaging to the street, it would eliminate one problem if Garry would accept it. We would leave the pipe there. Now, what we have to do is encourage Garry to not cross the bike path any more than he has to and use this other access that will be potentially granted to him by the City.

The Mayor reported the other issue we are talking about is if we don't have the contractor move the pipe, we want some kind of benefit for the City. We have the Jeppesen issue, but now we are thinking about the City. Dick reported that he had that conversation with the contractor and he is willing to do that. In fairness, he would like to know what that is so it's not a moving target. Goodwill begets goodwill. If everyone is working together and is of a mind to try and solve problems and make things happen, then they certainly want to be counted in. He said they have fallen victim to some unfortunate circumstances and feel that those pipelines offer Sugar City the opportunity to develop that whole west side of the highway which someday may be very beneficial to the town in terms of development, tax revenues, etc. Without these being in there, it just isn't possible. Everyone is trying to do the best they can and maximize the benefits to everyone. Discussion was had that the contractor made arrangements with the subcontractor to do the line, and the subcontractor put the line in before anybody knew about it.

Dick reported he sent the contractor to meet with Garry Jeppesen because he felt that the onus ought to be on the contractor to resolve this concern. He had several alternatives that they talked about – getting an easement, moving the pipeline, purchasing the property. To be fair, that was a discussion this afternoon. He isn't sure that we can arrive at resolution there, but he is willing to sit down with Garry and talk it further. There was an initial proposal by his organization that was made a couple of years ago. They wanted to get an additional 50 or 75-foot easement on the north and the south sides because they just own a narrow strip. The Council at that time had a few concerns with that, particularly in the long term.

The Mayor feels the contractor has a problem with Jeppesens, and we are not in a position to make a decision at this time. He feels there are two issues – Jeppesens vs. the contractor, and Sugar City vs. the contractor. It would be helpful to have on the table the amount of money it would cost the developer to remove it. He reported we are not able to resolve it tonight because we don't have enough information.

Garry Jeppesen submitted an official letter to the City on the issue. He protested the fact that the City does not have an easement for the bike path to cross his property. Dick reported his deed said the City has a nine-foot utility easement west behind the curb. He is confident that the bike path can be called a utility.

The Mayor assigned Councilmember Deitz to take the lead in working with Garry Jeppesen and the contractor and come up with some kind of proposal, and keep the Mayor fully apprised of it. He suggested we have something ready for our next meeting two weeks from now. We will try to get the information to the Council well ahead of that so they can be looking at it. Dick said the contractor should step up and help resolve this issue. Councilmember Deitz suggested sitting down in a meeting next Thursday, May 18th, at 3 p.m. with Garry, Dick, the

Mayor, and Depatco. The meeting was officially approved, subject to Depatco's approval.

SunRiver Lake Estates: Dick reported he received word from Steve Young's office that they are willing to cover the cost of having extended that pipeline where the City put in the south entrance welcome sign. He said when we have an accounting of the bills, get it to him and he'll see they are paid.

PLANNING & ZONING REPORT: Sharee Palmer addressed the Council. She reported they had public hearings on Title 9, Chapter 6, which is the City Zoning; Title 9, Chapter 9A, 9B, and 9C which is Impact Area Zoning; and then also one on the City Zoning Map. They didn't have anyone testify either for or against the impact area ordinance.

Recommendation, Title 9, Chapter 9A, 9B and 9C: P&Z's recommendation to the Sugar City Council is that they accept the revised ordinance Title 9, Chapter 9A, 9B and 9C (Impact Area Zoning).

Then they did the city zoning and the zoning map together, and they did have some comment on that. Vaun Waddell had some concerns with some of the City zoning where we took Center Street down to C-1 instead of C-2. The Commission feels that Center Street is a C-1 commercial zone because it is limited to such a small commercial area and it is right next to residential. That is the description of C-1, so they felt like that fit. Janet Harris and Bill Gutenberger had concerns about their property on the zoning map. Gutenbergers are R-2 and so is Janet Harris. Then as it goes around the corner it is R-1. They thought it would be good to have it commercial. P&Z looked at it, and where it is on the corner it is just not conducive to have commercial there. There wouldn't be any parking. That is P&Z's reasoning for why they have left it as R-2 and R-1 and not commercial.

Recommendation, Title 9, Chapter 6 (City Zoning): P&Z recommends to the Sugar City Council that they accept the revised ordinance Title 9, Chapter 6 which is the City Zoning.

Recommendation, City Zoning Map: P&Z recommends to the Sugar City Council that they accept the revised City Zoning Map.

Report on Six-Man Committee Meetings: Sharee asked Garry Jeppesen to come up and they reported on the six-man committee meeting. She presented a map and reported they used our current impact area. They are going to meet once more and will have the map adjusted better. They used our old impact area, but they used our new zones. She told them that was confusing. They will fix that, too. Rexburg does not have any agriculture in their impact area. It's all trans-ag; and they wondered if we would consider dropping agriculture. The Commission does not think that is a good idea. They also wondered if we wanted to drop our light industrial. They are going to switch from industrial to manufacturing. Sharee reported they are trying to encourage industrial in the County and she feels it would be wise to have it on the comprehensive plan map so when someone comes in and looks at it they can identify it. They want to take manufacturing and then put all the zones in there. A discussion was had on industrial and manufacturing. Sharee reported whenever manufacturing is done, it's got to be done inside a building. They can't do their work outside of the building.

Land use definitions were also discussed. Rexburg and the County don't have definitions, and they are all interested in our definitions. They only wondered about light industrial and agriculture. We told them there is good reason for keeping them. They advised them they would give the Council feedback. She reported at their next meeting they will have completed what was directed by the City Council. The Mayor expressed appreciation for their excellent work.

Lois Webb Sign and Home Occupation/Home Business: Sharee reported there is a

sign in town at Lois Webb's home advertising her swimming lessons. P&Z discussed it, and Mrs. Webb needs to be written a letter telling her that is not allowed. Sharon will send the letter.

Discussion was had on when a home occupation crosses the line and becomes a home business. When Webbs started teaching the swimming lessons, they were teaching two or three times a day, not all day long. It was just three or four hours out of the day. It has turned into 8 a.m. until 4 p.m. every day of the week. She feels it is an issue and concern. We need to somehow monitor and keep track of these home occupations so that when they do turn into a home business that they are notified. Then they need to come in and apply for a special use permit, which is what would be required. Attorney Lee suggested there might be a way to change our definition of home occupation and home business. He said we should redefine our definitions. The letter to be written to Mrs. Webb was discussed. She needs to take down her sign and she needs to come in and visit with P&Z and redefine what her business is, whether it is a home occupation or a home business and go from there.

Comprehensive Plan: Sharee reported she and Jan Gallup met with the County P&Z tonight and presented our comprehensive plan. Jan gave a Power Point presentation. It gave them a feel for Sugar City and what we're doing. They asked that our P&Z Commission be able to come to one of their meetings and meet with them to discuss our impact area. Penny Stanford has said that where we've got this area under litigation, that the County couldn't approve it right now until that is resolved. But they feel that the extra impact area that we're asking for, we need some feedback from them on how they feel about that. They will arrange that meeting and let Sharee know when it will be. We are at least six months out from getting the map approved because the County on Monday had two comprehensive plan map change requests – one from the County and another from three individuals. They approved those. We still have some negotiating to do as far as the impact area.

Sharee reported after they made their presentation, Kurt Hibbert was there wanting to expand Rexburg's impact area. They have a developer coming in that's on the west side of town. Part of the property is in their impact area and the rest of it is not. He wants to be annexed into the city. Their request would increase their impact area by 50%. Jan reported she and Sharee had a visit with Penny Stanford on the impact area business. Her goal is to try to facilitate this as much as she can and try to mend some fences with Rexburg and Madison County. She feels they made great strides tonight.

Jan reported Penny said the County does not need to approve our comprehensive plan text. The only thing we need approval on is the increase in the impact area. Attorney Lee added, "to the extent that they are intertwined, we have to deal with it together." Really all we look at is the map and any ordinances that would affect the impact area.

JAN GALLUP:

Ordinance Revisions: Jan reported at the first P&Z meeting in June, the definitions would be up for public hearing. She will get the documents to City Council and they will have to have a public hearing. Jan reported P&Z has approved the ordinance that would affect the impact area, and that's Title 9, Chapters 9A, B and C. She needs 30 minutes at the next meeting to discuss Chapter 9A, B and C, and Chapter 6 (City zoning regulations). She will email them to the Council. She will discuss Chapter 6 first; and if there is enough time left of those 30 minutes, she will discuss Chapter 9.

Public Hearing: Jan reminded the Council they go to public hearing on Title 8 (design review) on May 25th.

DEPARTMENT REPORTS:

COUNCILMEMBER HARRIS: Harold reported on street repair and crack sealing. He estimates we will need 8 ton of crack seal. He signed a contract for \$24,000 worth of work, which was authorized by the Council. A discussion was had on street signs in Ricks Subdivision. Harold also reported the curb in Smith Park is finished.

COUNCILMEMBER DEITZ: Walter reported when they were plowing snow last winter down Brown Avenue, they plowed a little deep and knocked a manhole cover off and dumped a lot of gravel down in the manhole. We will get that cleaned out, and that's all the cleaning that will be done this year. He thinks that's what caused the sewer pump problems.

COUNCILMEMBER KING: Bruce reported cleanup starts next week. He reported we should define the scope in connection with the grants we want to get just exactly what we want to do with the grain silo. The Mayor reported we are not ready at this time to do that.

COUNCILMEMBER ORME: Brad reported the annual breakfast would be July 22nd. He notified Standard Journal and they will put an article in the paper in the next day or two.

MAYOR'S BUSINESS: The Mayor led a discussion on the possibility of putting a float in the 4th of July parade to promote Sugar City. Bonnie May Jackman expressed a desire to help.

MOTION FOR FLOAT FOR JULY 4TH PARADE: It was moved by Councilmember Deitz and seconded by Councilmember Harris that we authorize a committee to build a float for the 4th of July parade and spend up to \$500. A discussion was had. **MOTION TO TABLE:** It was moved by Councilmember Deitz and seconded by Councilmember King that we table the motion on building a float; motion carried.

EXECUTIVE SESSION:

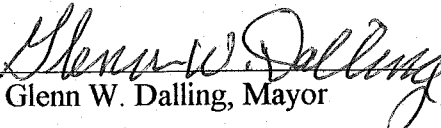
9:30 p.m. It was moved by Councilmember King and seconded by Councilmember Harris, pursuant to Title 67-2345(b) and (f), that we move into executive session to discuss personnel and possible pending litigation. The Mayor called for a roll call vote:


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

Those voting nay: None

Thereupon, the Mayor declared the motion passed.

10:50 p.m. The executive session ended and the regular Council meeting adjourned.

Signed: 
Glenn W. Dalling, Mayor

Attested: 
Sharon L. Bell, Clerk