

MINUTES OF REGULAR MEETING
SUGAR CITY COUNCIL
THURSDAY, JANUARY 25, 2007

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, Walter Deitz, Bruce King and Brad Orme; Kyra Davis, Standard Journal; Jan Gallup; Vaun Waddell; Sharee Palmer; Annette Green; Jade Green; Tehya Green; Jennie Hibbert; Kurt Hibbert; Tricia Hibbert; Shandi Hibbert; Sid Peters; Brandy P. Peters; JoAnn Peters; Eddie Pincock; and Sharla Pincock.

The Mayor asked if there were any corrections to the minutes of the regular meeting held January 11, 2007. Each councilmember had a copy of said minutes prior to the meeting. It was moved by Councilmember Harris and seconded by Councilmember Deitz to accept said minutes; motion carried.

CITIZEN INPUT: At the Mayor's request, Annette Green introduced herself and her children. Her son Jade is a Boy Scout earning his communications merit badge.

JAN GALLUP – PUBLIC RECORDS: Jan Gallup said her input is a combination for citizen input and also for city documents which is on the agenda. The Mayor asked her to start with citizen input. Jan submitted a document to the City Clerk and discussed each of the items thereon. A copy of said document is attached hereto, marked "Attachment 1."

The Mayor felt we should decline comment on Mrs. Gallup's document until our lawyer reviews her requests.

PLANNING & ZONING REPORT: Councilmember King reported he received a call from P&Z Commission Chairman Stephanie Blackham. She had a conflict tonight and asked him, as liaison to P&Z, to share a couple of things.

Appointment of Chairman of P&Z: Bruce reported P&Z appointed Stephanie Blackham to be the new Chairman of P&Z. A couple of the commission members felt they ought to wait until they had the full commission before they voted, but there was a motion to appoint her and a second to it. There was a motion and it passed. She did express some reservations and might want to rethink it when the whole commission is formed. The commission didn't appoint a secretary at that time.

Title 8, Chapter 6 – Wireless Service and Cell Towers: Bruce reported that P&Z had their public hearing on the cell tower ordinance. They had a gentleman from Louisiana come who was connected to cell tower organizations, and he wanted to provide input at the public hearing. He pointed out that their company felt the private road and setback requirements were a little strict. He said the technology that is developing would probably require more, not less, towers. Bruce said the Planning & Zoning Commission decided to revisit the cell tower ordinance again

and to talk further about it.

Letter to P&Z: The Mayor asked Councilmember King if he had any reaction to the letter he sent to P&Z. Bruce said he sent it to all the Planning & Zoning Commissioners by e-mail and he hasn't received any feedback on the letter. The Mayor thanked Bruce for the report.

DISCUSSION ON PROPOSED BUSINESS PARK: The Mayor reported Ted Hendricks is not here so there won't be any discussion on the proposed business park, except that it is still being discussed.

DEPARTMENT REPORTS:

COUNCILMEMBER HARRIS:

Agenda Schedule for County in Newspaper: After discussion, Kyra Davis said she will put on the agenda in the newspaper that our City Council meets on the second and fourth Thursdays each month and that our Planning & Zoning Commission meets on the first and third Thursdays each month.

Building Inspector: Harold reported we might be losing our building inspector because of other responsibilities. Mr. Steirle is starting a new business in St. George, Utah, as well as a business here. If it didn't conflict, he would be happy to stay on. He is now certified as a building inspector. We had a condition under his contract if the City paid for that certification, which was somewhere between \$1,700 and \$2,000, that he would agree to stay as an inspector for three years after certification. So he has chosen to pay for the certification himself because of this probable conflict that could come up. Harold expressed concern that the whole month of June Rogue will be in St. George setting up his new business, and at least one week a month he will be there. So we have a little time to decide what we want to do on that.

COUNCILMEMBER DEITZ: Walter reported the new sewer pump that we ordered for the main sewer lift station is here now and it will need to be installed.

COUNCILMEMBER KING: Bruce announced to the Council that he has taken a job with the Idaho Transportation Department at the Rigby office. He started Monday and will be the public information specialist, which is the public relations officer, at District 6. He said his ability to work on ordinances would, at least for a while, be slowed up. He hopes after he learns the job that his life will settle back down to normalcy.

Revisions to Title 1: Bruce reported he didn't work on anything beyond Chapter 1 of Title 1. He said he wanted to get the Council's reaction to the changes he made and presented a draft with the changes. He requested the Council to look at the suggestions and give him their feelings about them. Bruce suggested we take Title 1 chapter-by-chapter; and when that is set in place, we would move on to the next title. Once we get through Title 1, then we could have the public hearing for the whole 8 chapters, and then make a final decision if it is ready to be codified. The Council expressed being comfortable with the revisions to Chapter 1. Bruce said when he gets some time he will look at Chapter 2.

COUNCILMEMBER ORME: The Mayor asked if he could take a couple of minutes on dog control before turning it over to Brad. He presented the Council with a newspaper article on a city in Utah that limits dog licenses and a letter from Peggy Parks dated 9-18-06. He then turned the time over to Brad.

Dog Control Proposal: Brad said at our last meeting he and the Mayor agreed that they would figure out a proposal to get the ball rolling on animal control. The Mayor said he asked the public works employees to help us locate all the dogs in town as nearly as they could. They went through the list of people who pay utility bills and they put yellow marks on people

that they see with dogs. Then Marcie went through and put a pink dot by the ones who had licenses. Marcie said there are 31 licensed dogs and 28 unlicensed dogs. This count does not take into account owners who have more than one dog. The Mayor asked the Council to take a few minutes tonight and mark if they know of any dogs that are not listed, and then our list of dogs would be complete. Letters will be written to all dog owners who don't have licenses. Brad said we have a dog control ordinance right now. It is good, but it probably needs to be updated.

Brad's Proposal: Brad presented his Animal Control Proposal dated January 25, 2007, a copy of which is attached hereto, marked Attachment "2."

Chad Nanney's Proposal: The Mayor said Mr. Nanney presented him with a Proposed Animal Control Officer Position, a copy of which is attached hereto, marked Attachment "3."

Tranquilizer Gun: The Mayor said the City had helped pay for a tranquilizer gun and it presently is in the hands of the Rexburg animal control officer. Brad said he would check with Officer Stanford on the matter.

The Mayor said we are under pressure to do something on animal control. We've got people that are threatening to file a lawsuit against us for not enforcing our existing ordinance, and we've got people who continually violate the leash law. Kennels are not allowed in R-1 and R-2 zones under the present ordinance. Discussion was had. The Mayor called the Council's attention to the motion in our last minutes that says we were to contact the Madison County Sheriff's office to request that they begin enforcing our dog-related ordinances, including writing citations if necessary. That has been done. But we have to have a written complaint before they will take action. It was felt that this pits neighbor against neighbor, which is not good. We do need to have our own animal control officer. The Mayor will visit our public works employees to see if they would be willing to help with this matter. Something will be written again in the monthly newsletter about the dog problem.

The Mayor said we should talk about raising the dog fee licenses. Marcie reported dog licenses are \$10 a year, and they all expire on May 1 each year. So the fee until May 1 will be \$5.

The Mayor said some dog owners are accused of having a kennel—more than two dogs—in R-1 and R-2 zones, and this is totally illegal. We can send a letter out as soon as we get the dog owners' list as complete as possible. The Mayor said Rexburg has an animal control officer and Deputy Stanford wondered if he had some time to help us. We haven't got an answer back on that yet. Councilmember Orme feels we should ask P&Z to review the animal control ordinance.

MOTION ON DOG CONTROL: It was moved by Councilmember King and seconded by Councilmember Deitz that given the ongoing concerns about dogs in Sugar City, I move we include an entry in the next City newsletter explaining that (a) the City has asked the sheriff's office to enforce the City's dog ordinance; (b) citizens with a complaint are invited to submit a signed complaint to the City Clerk, who will pass it on to the sheriff's office—a county officer will go to the plaintiff and have them sign a citation and advise them that they may need to testify in court; (c) the City will send a letter to dog owners in town reminding them of the requirement to have a current license for each of their dogs; and (d) citizens are required to comply with the present dog ordinance; motion carried.

The Mayor entertained a motion to go into executive session.

EXECUTIVE SESSION:

8:00 p.m. It was moved by Councilmember King and seconded by Councilmember Deitz, pursuant to Idaho Code 67-2345(1) (b) & (f), that we move into executive session to discuss personnel 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.

Discussion during executive session was on personnel and litigation issues related to annexation and development.

9:40 p.m. The executive session ended and the regular Council meeting reconvened.

MAYOR'S BUSINESS:

Judge's Dismissal of Petition for Judicial Review: The Mayor reported that Judge Moss dismissed the City's Petition for Judicial Review of Rexburg's purported annexation of the Harris and Brown properties. We received the notice yesterday. The City lawyer is aware of it and will offer us counsel as to what we should do.

Appointment to Planning & Zoning Commission: The Mayor reported that he contacted Kerry Moser about serving on the Planning & Zoning Commission and wanted to make an official appointment tonight. He would appreciate a confirmation vote. **MOTION:** It was moved by Councilmember Harris and seconded by Councilmember King that the City Council give the Mayor an affirmative vote on the appointment of Kerry Moser to the Sugar City Planning & Zoning Commission to fill the seat vacated by Bob Oliphant, who resigned; motion carried.

Meeting adjourned at 9:45 p.m.

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

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

Item 1: City council cannot discuss or deliberate on appointments to the planning and zoning commission in an executive session.

An executive session may be held:

- (a) *To consider hiring a public officer, employee, staff member or individual agent. Idaho Code 67-2345*

Members serving on boards and commissions established by a mayor and city council cannot be hired.

Members of all such boards, commissions or committees shall serve without compensation, but actual and necessary expenses may be allowed by ordinance in the case of permanent boards, commissions or committees, or with prior approval of the mayor and city council for all other boards, commissions or committees. Idaho Code 50-210

Members shall be selected without respect to political affiliation and may receive such mileage and per diem compensation as provided by the governing board. Idaho Code 67-5604

The appointment of Vaun Waddell to the planning and zoning commission is not legal because deliberation was done in executive session, as shown on the official minutes of the December 28, 2006 meeting. The minutes of the 28th meeting also show that the council was informed that their discussion of appointments to the planning and zoning commission in an executive session is not appropriate or legal.

Item 2: City council cannot discuss recommendations for impact area representatives to be sent to the county commissioners in executive session.

Item 3: I believe that Councilman Harris has a conflict of interest with the design review ordinance. He has demonstrated that he cannot be impartial and serve the public interest. He has tried to pressure a citizen of this community to withdraw her letter submitted at the last city council public hearing for design review. He told this citizen that I had changed the text of design review after the design review committee approved it without anyone's knowledge. He also asserted that the design review committee established by the planning and zoning commission had no authority to work on a design review ordinance. The person submitting the letter and a witness can verify this.

Item 4: Minutes of a meeting do not have to be approved before they are made available to the public. State statute does not provide for approval by a council or commission before meeting minutes are deemed a public record. Read: 67-2344 and 9-337

Item 5: A reasonable fee schedule should be established for obtaining a copy of public records on a tape or a disc.

1. State statute provides for the copying of information on a CD but my concern is that the fee will be prohibitive. A CD costs fifty cents or less and it usually takes someone less than one minute to copy a 100 page document onto a disc, or less than a dollar's worth of time based on an hourly wage of fifteen dollars. I hope the city provides this service to citizens at a reasonable cost. Last June I had to

pay over \$8 for two audiotapes of a city council meeting. Another person recently only paid \$2.24 for two tapes of a city council meeting.

2. It is very helpful when documents that are saved as a file on a computer can be sent as an email attachment. I hope this will continue as allowed by state statute.

Nothing contained herein shall prevent a public agency or independent public body corporate and politic from providing a copy of a public record in electronic form if the record is available in electronic form and if the person specifically requests an electronic copy. A request for a public record and delivery of the public record may be conducted by electronic mail. State Statute

Animal Control Proposal January 25, 2007

Findings:

There are currently 31 dogs licensed in the city at a fee of \$10 per animal for a total yearly revenue of \$310

Estimates of actual dogs living in the city are around 150.

Proposals:

- Raise license per dog from \$10 to \$20 per year. Raise license fee for second dogs in a household to \$30 per animal. If all 150 estimated dogs in the city were licensed at \$20 each this would be a total yearly revenue of \$3,000. If there are 120 single dogs and 30 second dogs this brings revenue to \$3,300 per year.

Options:

1. Hire part-time animal control officer.
 - \$200 monthly salary. Would include taking care of all animal problems in the city from squirrels to big animals.
 - Incentive money per stray dog caught.
 - Incentive money per each additional dog licensed based on officer investigation. (Part of officer's duties would be to investigate reports of unlicensed dogs and notify owner about licensing animal)
2. Include animal control duties with one or more of our public works employees.

Ideas:

1. Animal control vehicle to help broadcast the presence of an officer to citizens.
2. Procedures for violations and investigations: Any citizen complaining of a violation notifies city hall, city hall then notifies animal control officer. Officer investigates and if action is warranted will either give a written warning or a ticket. (We can discuss exactly how the procedure will be)
3. Ban on certain dogs within the city, Pit-Bulls, etc?
4. Kennels? Other ideas?

Action Plan:

Figure out final proposal and if needed send to planning and zoning to rewrite the ordinance.

PROPOSED ANIMAL CONTROL OFFICER POSITION FOR THE CITY OF SUGAR CITY

- 1) OFFICER WILL HAVE LIMITED LAW ENFORCEMENT ABILITIES... IE ISSUING CITATIONS, WRITING WRITTEN WARNINGS. ECT.
- 2) OFFICER WILL RESPOND TO ALL ANIMAL PROBLEMS FROM MICE TO MOOSE. HELP COULD BE ACQUIRED FROM THE FISH AND GAME, APHIS ECT. BUT PRIMARY DUTIES WILL BE ENFORCING DOG AND CAT REGULATIONS WITHIN THE CITY LIMITS OF SUGAR CITY. I PROPOSE THAT DOG REGISTRATIONS BE RAISED TO \$25.00 EACH AND CAT REGISTRATIONS BE \$10.00 PER CAT. THE OFFICERS WAGE COULD BE PAID OUT OF THESE MONIES.
- 3) OFFICER WOULD RECEIVE COMPENSATION FOR MILES PUT ON PERSONAL VEHICLE OR A VEHICLE WOULD BE PROVIDED BY THE CITY OF SUGAR CITY. A LOCAL TRAP MANUFACTURE HAS AGREED TO GIVE THE CITY A BREAK ON LIVE TRAPS, PULL COLLARS (A COLLAR DEVICE THAT CAN BE BAITED WITH MEAT AND WHEN THE DOG PULLS ON THE MEAT THE COLLAR POPS UP AND CATCHES THE DOG BY THE NECK) ECT.
- 4) THE CITY OF SUGAR CITY HAS PROBLEMS WITH CITIZENS WHO ARE NOT RESPONSIBLE WITH THEIR PETS. MANY DOGS ARE NOT REGISTERED AND CATS ARE ALLOWED TO RUN WILD. LOCAL LAW ENFORCEMENT PUTS A VERY LOW PRIORITY ON RESPONDING TO ANY ANIMAL PROBLEM. THAT WOULD CHANGE IF I WERE HIRED AS THE ANIMAL CONTROL OFFICER. I DO WORK FOR THE STATE OF IDAHO 2:30 PM TO 10:30 PM MONDAY THRU FRIDAY, SO I WOULD NOT BE AVAILABLE DURING THOSE HOURS BUT OTHER WISE I WOULD BE AVAILABLE. MY PLAN WOULD BE TO RUN LIVE TRAPS AND PULL COLLARS. OWNERS WOULD BE CITED OR GIVEN A WRITTEN WARNING AS THE CASE WARRANTED.
- 5) IN ORDER TO JUSTIFY MY TIME IN THIS ENDEVOR I WOULD NEED TO HAVE \$1000.00 TAKE HOME A MONTH. I WOULD NEED THE CITY OF SUGAR CITY TO PURCHASE THE TRAPS AND PULL COLLARS, WHICH WOULD REMAIN THE PROPERTY OF SUGAR CITY, AND WOULD PAY FOR THEMSELVES OVER TIME.