

MINUTES OF REGULAR MEETING  
SUGAR CITY COUNCIL  
THURSDAY, JANUARY 13, 2011

Presiding: Mayor Glenn W. Dalling  
Meeting Convened at 6:30 p.m.  
Prayer: Harold Harris  
Pledge of Allegiance

Present: Mayor Dalling; Sharon L. Bell, Clerk; Marcie A. Smith, Treasurer; Councilmembers Harold Harris, Bruce King, Lamont Merrill and Vaun Waddell; Brian Hawkes and Jesse Brown, Planning & Zoning Commission; Shannon Self, *Standard Journal*; David R. Tuthill, Jr., Ernie Carlsen and Stan Clark, Idaho Water Engineering, LLC; Randy Johnson, Forsgren Associates; Laroy Hillman, Moose Creek Cabins & Cottages; Erik Nielsen; and Talmage Coates.

**IDAHO WATER ENGINEERING, LLC (Dave Tuthill) – WATER RIGHT PROPOSAL:**

The mayor altered the agenda to accommodate Dave Tuthill, Ernie Carlsen and Stan Clark of Idaho Water Engineering, LLC. Mr. Tuthill addressed the council, explaining that he is the principal of Upper Snake Mitigation Solutions, LLC. He presented a proposal for the City of Sugar City – Developing a Matrix of Options for New Water Rights, which would offer a path forward for the City of Sugar City to identify ways to secure new water right approvals in a cost-effective manner as it plans for future growth. Upper Snake Mitigation Solutions, LLC, was created in 2010 to meet a perceived need for mitigation solutions. Its principals are Rocky Mountain Environmental Associates, Inc.; Idaho Water Engineering, LLC; Mr. Stan Clark; and Mr. Dean Mortimer. Mr. Tuthill discussed water rights basics, water rights challenges for Sugar City, and their proposal of help.

**Water rights basics:** A conjunctive impact is the idea that a well will affect the water level of a local stream, in other words, that surface water rights are connected to ground water rights. Lyle Swank, water master, currently administers surface water only – not ground water. By 2014, the water master’s role will include ground water in water districts. In Idaho, the appropriation doctrine is used for the delivery of both surface and ground water rights. “First in time is first in right.”

**Water right challenges for the City of Sugar City:** Forsgren Associates, Inc., has prepared a 20-year Water System Analysis, which shows that present water rights owned by Sugar City will not accommodate anticipated growth. Present ground water rights for lawns and parks are subject to call (challenge) by senior surface water rights. The city’s application for Permit No. 22-13886, filed with the Idaho Department of Water Resources on August 18, 2008, was protested by a group of five water delivery organizations and remains contested today.

**Proposal by Upper Snake Mitigation Solutions, LLC (USMS):** USMS proposes to create a matrix of potential solutions, with associated advantages and disadvantages, and to report on these potential solutions to the Sugar City Council by June 1, 2011. The cost of this matrix development and reporting effort would be based on time and expenses not to exceed \$5,000. USMS would be prepared to assist the city with implementing solution(s) selected by the City Council, if requested. The work of USMS augments but does not replace the work of

Forsgren Associates, Inc. The mayor thanked Mr. Tuthill for his presentation.

Later in the meeting, it was decided to have the mayor ask Mr. Tuthill for a breakdown of his billing and to obtain more information from him regarding USMS's final report and have it ready for the next meeting. The water right proposal will be on the agenda again two weeks from tonight.

The Mayor asked if there were any corrections to the minutes of the regular meeting held on December 9, 2010. Each councilmember had a copy of said minutes prior to the meeting. It was moved by Councilmember Merrill and seconded by Councilmember Harris to accept said minutes; motion carried.

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

Marcie presented the current bills in the amount of \$91,987.67. It was moved by Councilmember Harris and seconded by Councilmember King to pay the current bills, together with all regular January bills that have not yet been received; motion carried.

**ORDINANCE NO. 291:**

Councilmember Waddell introduced Ordinance No. 291 entitled:

“AN ORDINANCE ENACTING CHAPTER 10 OF TITLE 9 OF THE SUGAR CITY, IDAHO, MUNICIPAL CODE TO PROVIDE FOR HOME BUSINESSES WITHIN RESIDENTIAL ZONES, REPEALING ANY PROVISIONS OF THE CODE CONTRARY TO THIS ORDINANCE, AND PROVIDING FOR THE EFFECTIVE DATE OF THIS ORDINANCE.”

It was moved by Councilmember Waddell 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: Councilmembers Harris, King, Merrill and Waddell  
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 Waddell and seconded by Councilmember Harris to adopt said ordinance. Thereupon, the clerk called roll upon said motion.

Those voting aye: Councilmembers Harris, King, Merrill and Waddell  
Those voting nay: none

Ordinance No. 291 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. 291 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.

**PLANNING & ZONING REPORT:** P&Z Chairman Brian Hawkes addressed the council.

**Recommendation on Agri-Service Special Use Permit:** Brian presented P&Z's written recommendation as follows: "On January 6, 2011, a public hearing was held for Agri-Service to consider their application for a special use permit. This permit is necessary for a second lighted free-standing sign for their business on 9<sup>th</sup> North. The Sugar City Code, Title 8, Chapter 2, Section 4 states that only one free-standing sign is permitted per street frontage. Exceptions are to be granted by a special use permit. The public hearing was started at 7 p.m. Zane Palmer was the only member of the public in attendance. He represented Agri-Service. No one spoke for, neutral or against granting a special use permit. After considering the information at this public hearing, the Sugar City Planning and Zoning Commission has voted to recommend that the Sugar City Council grant the special use permit to Agri-Service for a second free-standing lighted sign."

**Recommendation from Design Review Board for Harris Construction:**

Councilmember Harris disqualified himself and did not take part in any discussion on this matter. Brian presented P&Z's written recommendation as follows: "On January 6, 2011, a design review board was held to review the design for a restaurant being built by Harold L. Harris Construction. The plans for the exterior of the business, presented by Bryan Harris, were well presented and will help dress up the street where the restaurant will reside. There were no objections to the plans presented to the Design Review Board. Therefore, the Design Review Board, consisting of the Sugar City Planning and Zoning Commission, voted to accept the plans presented by Harold L. Harris Construction with no changes or recommendations and recommend that these plans be accepted by the Sugar City Council."

**Discussion on role of government:** Brian led a discussion on where the council gets its power and authority to act in behalf of the City of Sugar City. They have the power to act in their positions because they have been elected. Laws set boundaries so we can live in harmony with each other. Sometimes laws make things better and sometimes they are a detriment. If everyone had their neighbor's best interest at heart, we would need fewer laws. Brian said the City Council and Planning and Zoning Commission need to make sure that the laws we pass are necessary and important, that they preserve the things we deem most important in Sugar City and that they are not burdensome. The city also needs to ensure it properly administers its laws. City officials are vested with a serious trust.

Brian said he has enjoyed his time serving on the Planning and Zoning Commission. On behalf of the council, the mayor expressed appreciation for Brian's good work and said that it has been a positive experience working with him. He reported that he appointed two new P&Z members: Jared Luthy to fill the unexpired term of Ray Barney, and Bill Taylor to fill the seat vacated by Brian Hawkes. If confirmed, City Clerk Sharon Bell will administer the oath of office to them on January 20.

**DISCUSSION/POSSIBLE DECISION ON P&Z RECOMMENDATION ON AGRISERVICE SPECIAL USE PERMIT:**

**MOTION:** It was moved by Councilmember Waddell and seconded by Councilmember

Merrill to approve the recommendation from Planning and Zoning to approve the special use permit for Agri-Service. The mayor called for a roll call vote:

Those voting aye: Councilmembers Harris, King, Merrill and Waddell  
Those voting nay: None

Thereupon, the mayor declared the motion passed.

**DISCUSSION/POSSIBLE DECISION ON P&Z RECOMMENDATION ON DESIGN REVIEW FOR HARRIS CONSTRUCTION:** Councilmember Harris disqualified himself, did not take part in the following discussion, and did not vote on the design review recommendation.

**MOTION:** It was moved by Councilmember Waddell and seconded by Councilmember Merrill to approve the recommendation from the Planning and Zoning Commission, acting as a design review board, for the construction plan of the Harris Construction Company's restaurant. The mayor called for a roll call vote:

Those voting aye: Councilmembers King, Merrill and Waddell  
Those voting nay: None

Thereupon, the mayor declared the motion passed.

8:10 p.m. Councilmember Harris resumed his position at the council table.

**DISCUSSION ON ALLEY EASEMENT BY FIRE STATION:** The mayor said he didn't have anything to report at this time. They met with JRW & Associates, who will make a proposal regarding the problem, but it has not yet arrived. This item will be put off until we have something concrete.

**DEPARTMENT REPORTS:**

**COUNCILMEMBER HARRIS:** No report.

**COUNCILMEMBER KING:**

**Sterling Codifiers:** Bruce reported that Sterling Codifiers gave us a special deal of \$100 per year for hosting our code on the Web. He suggested maybe we should be willing to bump it up a little.

**COUNCILMEMBER MERRILL:** No report.

**COUNCILMEMBER WADDELL:** No report.

**MAYOR'S BUSINESS:**

**Discussion of P&Z appointments:** The mayor proposed that Jared Luthy be appointed to fill the remaining year of Ray Barney's term, that Bill Taylor be appointed for a three-year term to fill the vacancy created by Brian Hawkes' upcoming departure, and that Jesse Brown be reappointed for another three-year term.

**MOTION:** It was moved by Councilmember Waddell and seconded by Councilmember Harris to approve the appointment of Jared Luthy to fill the unexpired term of Ray Barney (1 year), the appointment of Bill Taylor for a three-year term, and to reappoint Jesse

Brown for a three-year term on the Planning and Zoning Commission; motion carried.

**Purchase of additional pickup:** The mayor wants the council to think about purchasing another pickup. The old pickup is a 1996 model, has difficulty pulling the air compressor, has a short bed creating a limited-load capacity, and also in the summer we have three additional employees. Zane has investigated some used pickups in the price range of \$10,000 to \$14,000. We will have the matter on the agenda of the next meeting.

**Declaring surplus property: old lawn mower and diesel engine of old sweeper:** The mayor reported we have an old lawn mower and diesel engine of an old sweeper that the city should declare as surplus property and sell.

**MOTION TO DECLARE SURPLUS PROPERTY:** It was moved by Councilmember Merrill and seconded by Councilmember Waddell to declare the old lawn mower and diesel engine of the old sweeper as surplus property and make them available for sale; motion carried.

**Moose Creek Cabins & Cottages – interest in lot in Business Park:** The mayor reported that Laroy Hillman of Moose Creek Cabins & Cottages in Idaho Falls has expressed an interest in putting a construction building in the Sugar City-Madison County Business Park in Sugar City. Clair Boyle has been working on this and feels it complies with the protective covenants. Mr. Hillman addressed the council, saying that the small cabins (448 sq. ft.) will be built inside the building and all construction materials will be kept inside until the cabins are completed. The company is licensed through the state as a builder and someone from Boise will inspect the cabins. He said Dome Technology, the parent company, also is in Idaho Falls. The mayor reported that it is only a contact at this point, but he will let Mr. Hillman know that the council is interested in the proposal.

Meeting adjourned at 9:15 p.m.

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

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