

ADDENDUM:

APRIL 11, 2019 MINUTES

MAY 23, 2019 MINUTES

During the January 14, 2021 meeting of the Sugar City, City Council Meeting it was brought the attention of the Council there needed to be an addendum to explain the lack of City Council minutes from April 11, 2019 to May 23, 2019. This document will be added in City records in the space between April 11, 2019 ad May 23, 2019.

On April 11, 2019, three members of the Sugar City, City Council resigned prior calling to order of the meeting. This action cancelled the meeting due to lack of a quorum. Due to the resignations Governor Brad Little had to appoint two of the three positions and Mayor David Ogden had to appoint one. This created the significant gap in City Minutes.

Attached to this Addendum are the resignation letters of Joy Ball, Bruce King and Vaun Waddell delivered to Mayor Ogden prior to calling to order the April 11, 2019 meeting.

A correction to the May 23, 2019 minutes needed to be noted. Page one under the title 'WELCOME AND ANNOUNCEMENT OF GOVERNOR BRAD LITTLE'S APPOINTMENT OF TWO COUNCIL MEMBERS', Page 1, Paragraph 1, Line 5, the minutes should read "earlier in April" not "earlier in March".

Attached:

Resignation letter of Joy Ball

Resignation letter of Bruce King

Resignation letter of Vaun Waddell

April 11, 2019

Dear Mayor and City Council,

When I made the decision to run for City Council I had a vision of how my participation in city government could effectively accomplish several things:

First, the voice of the people would be heard.

Second, the legislative branch could council together to accomplish goals for the good of the city as expressed in the Comprehensive Plan.

Third, commissions assisting the City Council could carry out their duties independent of executive control.

Fourth, in my role as a city councilwoman I could be a "watchman" as to insuring the law was followed.

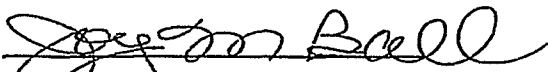
My vision for participation in city government was hindered in the following 10 ways:

1. In an Executive Session, the city attorneys insisted that 3 of the city council members hire their own legal counsel because the city's attorneys were on the opposing side. They also suggested that I ought to recuse myself from any discussion or voting on the final plat of OFE #3. This meant that I was not able to bring up concerns I had about items from the original development agreement not being addressed, no open space indicated on the final plat, or if there needed to be site plans.
2. In another Executive Session concerning the Settlement Agreement, the city attorney did not give complete information; only what he wanted us to hear. This led to misinformation on my part and supporting an agreement that I otherwise may not have voted to approve.
3. Not following law on Feb. 28th, when a violation of the Open Meeting Law (no roll call vote) needed to be cured. The attorney and the Mayor insisted there had been no deliberation, the motion was made to accept the default and the cure, and when the vote was a tie, the Mayor voted yes. This was in direct opposition to what the Open Meeting Law Manual explains on page 6 as it defines "deliberation."
4. At the Public Hearing for the amended zone change application, I was berated by the mayor for questioning if proper notification had been given as per State Statute 67-6509, had my integrity questioned by the city attorney, and was threatened by the Lerwill's attorney.
5. After City Council meeting on March 14, in which I introduced a resolution for governing conduct of meetings and motions, the city building inspector harassed me by asking why I had to continue stirring the pot; that he and others felt that's what I was doing.
6. It concerns me that State Statute as well as City Code was circumvented with the construction of the new building near Pro Peat originally designated as a concrete business's warehouse. There is a process required by law concerning zoning, Design Review, public hearing, City Council and holding an additional meeting in violation of the Open Meeting Law (What

constitutes a meeting under the Open Meeting Law? . . . a "meeting" is the convening of a governing body to make a decision or deliberate toward a decision. Additionally, a quorum must be present... regardless of whether a meeting or gathering is formal or informal, [i]t is the law's intent that any meetings, relating to any matter on which foreseeable action will be taken, occur openly and publicly . . . The requirement that the Open Meeting Law be complied with whenever a quorum of a governing body meets to deliberate or to make a decision should not be evaded by holding smaller meetings with less than a quorum present or by having a go-between contact each of the governing body members to ascertain his/her sentiment. --Idaho Open Meeting Law-- Manual pp 6-8)

7. The action item on the agenda for April 11 to modify the ERU (equivalent residential unit) calculator for large water users gives the turf farm a special rate. This seems unfair for the rest of the citizens who receive no such break.
8. The mayor's suggested modifications to the Street Code on the April 11 City Council agenda allows the Mayor and City Engineer to approve changes to required concrete curbs and gutters. Idaho law does not allow the City Council to give its power to govern to the Mayor. He appears to be allowing himself the right to legislate as well as to act in an executive role.
9. A year ago (April 26, 2018) the City Council passed a motion to invite the Design Review Board to review the Proposed Draft Amendment changes to City Code 9-1-3 and 9-1-4 and to have their recommendations to the City Council by May 4. Month after month P&Z chairman Dave Thompson has reported that they are still working on it and hope to have a public hearing soon. Recently the question was asked why it was taking so long. The response was that they were informed that other things were more important and this could be put on the back burner. This is another example of executive control over an independent commission.
10. Lastly, the results of the recall election spoke clearly that the majority of the people desire the leadership of Mayor Ogden and Councilman Barrus.

Because I feel that I have been ineffective in successfully being a "watchman," and cannot fulfill that role with the present mayor and city council member who oppose my stance on issues, I hereby immediately resign my office as City Councilwoman for the city of Sugar City.
Sincerely,


Joy M. Ball

Date: April 11, 2019

April 11, 2019

Mayor and Council:

Please accept my resignation, effective after I read this letter.

For the past 16 years – 14 on the City Council and 2 on the Planning and Zoning Commission – I have worked hard to further good government. An entry from my journal provides insight into my efforts:

Thursday, October 8, 2009 – (Quote) “At City Council meeting tonight, the council unanimously adopted title 1.... So, after two and one-half years of organizing; reorganizing; writing; rewriting; consulting with councilmembers, Planning and Zoning Commissioner Vaun Waddell, City Attorney Bill Forsberg, Mayor Dalling, City Clerk Sharon Bell, City Treasurer Marcie Smith and local citizens; accommodating state statutes; proofreading and reproofreading, the first main section of the city code is now clear and sound, a potent collection of key city laws. I would feel ecstatic, were it not for being worn down by the never-ending process. Still, I am most grateful for being able to see this important project through to completion. Our new title covers much more ground in fewer, better-arranged words – presented, for the most part, in plain...language, such as can be understood on first reading.” (Close quote)

During my service, I have tried to follow the rule of law, heeding the city’s comprehensive plan and code, and I have willingly stood alone when I felt the council or commission strayed from this rule or otherwise proceeded unwisely. That said, I respect my colleagues, past and present, and have enjoyed our service together. Thanks to each of them for their contributions and support. Thanks also to members of the city staff, who have worked diligently over the years.

With the departure of Vaun and Joy, I see no way to move forward in what I believe is a productive manner. Remaining members of the administration and I have irreconcilable differences on our vision for the city, on our ways of doing things, and on our view of the weight and meaning of the comprehensive plan and code. Policies have been implemented that I fear will undermine the city’s stated goal as a place of refuge, as an assembly of peaceful, quiet neighborhoods, a place to move to, raise a family, and stay. Past decisions of leaders and residents alike appear definitive, such that my further participation will make little difference.

Everything depends on whom you elect or appoint to office. Holding positions of influence and control, leaders must be good, honest and wise, remembering their oath of office to support city, state and federal laws and to judge matters on the basis of those laws, not on the basis of personal values. Officeholders, I feel, have an obligation to further the collective values of their constituents, values embodied in their government’s rulebooks. In Idaho municipalities, these rulebooks are the comprehensive plan and code. Further, public officials have a responsibility to observe constitutional principles, including enumerated powers and separation of powers, and to be on guard against the tendency to unnecessarily grow government.

Now, I wish to give some reasons why I felt compelled to sign the recent settlement agreement for Old Farm Estates, Division 3:

1. The Lerwills stated they would withdraw their lawsuit against the city and myself.
2. They would also withdraw their \$9 million tort claim against the city.
3. The Lerwills would agree to a cap on apartments in buildings of five or more units.
4. The city would pay part of my attorney fees. (The city had originally agreed to pay my fees and then declined.)
5. Signing could bring finality to distasteful legal conflicts, enabling the city to move forward after what has been a polarizing community issue.
6. I concluded I had little chance of winning my defense should I appeal the latest decision of the district court in my case to the Idaho Supreme Court.

During the past three years of the legal disputes, I have stood on principle. I have kept my oath of office. I stated my general belief that establishing new high-density residential zones and applying those zones to large parcels of land violated Sugar City's comprehensive plan and code, and I defended that view to the best of my ability. While settlement of this particular dispute was, in my mind, prudent given the reasons set forth above, my general political views about increased high-density development in Sugar City remain the same, a reflection of requirements in our plan and code.

My position during the lawsuit against me was that free speech is essential during a political campaign. Otherwise, candidates for office will not express their views, preventing voters from a true understanding of their platforms.

The California Supreme Court ruled: (Quote) "A councilman has not only a right but an obligation to discuss issues of vital concern with his constituents and to state his views on matters of public importance. ... [I]t would be contrary to the basic principles of a free society to disqualify from service in the popular assembly those who had made pre-election commitments of policy on issues involved in the performance of... sworn... duties. Such is not the bias or prejudice upon which the law looks askance. ... [I]t would frustrate freedom of expression for the enlightenment of the electorate that is of the very essence of our democratic society." (Close quote) (see "Defendant King's Supplemental Memorandum in Support of Consolidated Motion for Reconsideration, Motion to Stay, or, in the Alternative, Motion for Permissive Appeal," p. 8, Nov. 6, 2018)

In another case, the California attorney general stated: (Quote) "...the written or verbal expression of preliminary opinion alone does not... preclude a council member from... participation at [a] hearing. ... A... council member's prior knowledge of the factual background which bears upon a council decision or even a member's prehearing expression of opinion on the result does not, as a matter of statute or constitutional law, by itself disqualify the member from acting on a matter before the council. ... the expression of opinion alone, whether verbal or in writing in the form of a petition or otherwise... is [insufficient] to overcome the presumption that a public officer will act properly. ... the... council member... [thus] is not disqualified... from subsequent participation in the proceedings regarding the application for... the project." (Close quote) (see "Defendant King's Supplemental Memorandum in Support of Consolidated Motion for

Reconsideration, Motion to Stay, or, in the Alternative, Motion for Permissive Appeal,” pp. 9-10, Nov. 6, 2018)

In further defense against the Lerwill lawsuit, I stressed that I already voted against the application on May 25, 2017, because I believed it violated Sugar City’s comprehensive plan and code. There was no new application before the council at the time of the election campaign, and my voting was before my wife’s involvement in “Citizens for the Rule of Law” and accorded with the group’s later position. I believed these were salient and central points in defense of my eligibility to vote again after the zoning decision was remanded by the court to the City Council and after the citizen group had disbanded, having won their case.

Thanks to all in city administration, both past, present and future, and thanks to city residents and others who have supported me over the years. I will miss our association together in the important work of municipal government.

Finally, thanks to those members of our community who have the courage to question government actions, who realize that just because government leaders may be nice neighbors doesn’t automatically mean they will always make sound decisions. Generally, a decision follows the law or doesn’t, is wise or unwise, is right or wrong, regardless of who makes it. The test of a decision is how it will affect the people and their future.

Sincerely,



Bruce P. King
Sugar City Councilman

P.S. I request that this letter of resignation be included in the city’s record.

April 11, 2019

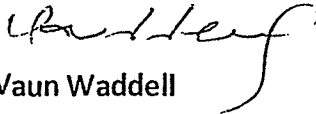
Mrs. Joy Ball
Vice-president of Sugar City Council

Dear Mrs. Ball:

The people should be represented in city government by persons whose health makes full participation possible. In the near future this will not be the case with me.

This letter constitutes my resignation from the Sugar City Council, effective immediately.

Sincerely,


Vaun Waddell