

MINUTES OF REGULAR MEETING
SUGAR CITY COUNCIL
THURSDAY, APRIL 26, 2018

Presiding: Mayor David D. Ogden
Meeting Convened at 6:30 p.m.
Prayer: Brent Barrus
Pledge of Allegiance

Present: Mayor David D. Ogden; Clerk-Treasurer Wendy McLaughlin; Councilors Brent Barrus, Vaun Waddell, Joy M. Ball, and Bruce King; City Public Works Director Zane Baler; Chairman Dave Thompson of the Planning and Zoning Commission; City Building Inspector Cliff Morris; Delorum Co-Founder and Project Manager Keith Nelson; Citizens Bruce Arnell, Mary Louise Barney, JoAnn Clark, Necia Hoopes, Kimber and Shelley Jones, Bert McLaughlin, and Lawrence Nielsen.

Councilman Barrus said he wished to take a few minutes. Councilman Barrus asked Councilors, Ball, King, and Waddell how they revised the draft minutes for each meeting. They replied that they send their corrections by email to Councilman King and then Councilman King sends in the revisions with his to the city clerk. Councilman Barrus also pointed out that the three sat together at the Association of Idaho Cities (AIC) spring training meeting April 24 and he wondered if they were discussing city business in violation of the open meeting law and asked that statements he read be included in the council minutes. He then read from Idaho Attorney General Lawrence Wasden's Idaho Open Meeting Law Manual (see attached).

Councilman Barrus hoped that going forward the minutes revisions be done using one-way emails to the city and Councilors Ball, King, and Waddell be mindful of the appearance of colluding in meetings outside the city council meeting.

MINUTES: Mayor Ogden asked if there were any corrections to the revised minutes of the regular meeting held on April 12, 2018. Each councilor had a copy of the minutes prior to the meeting.

MOTION: It was moved by Councilman Waddell and seconded by Councilwoman Ball to accept the minutes as corrected; motion carried.

MOTION TO AMEND AGENDA: It was moved by Councilman Waddell to amend the agenda by adding two action items:

- Repeal and Replace City Code 8-4-4 Design Review Board
- Invitation to Planning and Zoning Commission on Amendment to City Code 9-1-3 and 9-1-4

Councilman Waddell said the good faith reason for adding these two items was that he requested their addition on Monday but they did not find their way onto the posted agenda by close-of-business Tuesday, yet they address urgent business of the people; they are, in fact, overdue. Councilwoman Ball seconded and the motion carried, with Councilman Barrus against:

PLANNING AND ZONING PROPOSED AMENDMENTS TO 9-1-3 AND 9-1-4:

Planning and Zoning will review the proposed changes and then make their recommendations to the council after consideration of the proposed changes. The council will not deliberate until after P&Z's recommendations.

MOTION: It was moved by Councilman Waddell and seconded by Councilman Barrus to invite the Planning and Zoning Commission to review the proposed draft; motion carried.

DESIGN REVIEW BOARD PROPOSED DRAFT AMENDMENT:

The Design Review Board will be treated as the Planning and Zoning Commission in that their recommendations would be sought as well before the City Council considers any changes. Councilman Waddell asked that they be done in time for the next council meeting May 10. However, the mayor indicated that additional time would be granted, if needed.

MOTION: It was moved by Councilman Waddell and seconded by Councilman King to move the proposed draft to the Design Review Board and have their recommendations to the city by Friday May 4; motion carried.

PLANNING AND ZONING REPORT: Chairman Dave Thompson reported on the following items:

Design Review: The Design Review Board met and approved, with conditions, the Mission Shoes building in the business park to Planning and Zoning. A recommendation to the council was not presented.

Cottage Homes: Jeff and Ryan Lerwill submitted a Planned Unit Development (PUD) preliminary plat to Planning and Zoning at their last meeting. The application was turned in too late to consider that night and will be put on the next agenda. Developers Jeff and Ryan Lerwill have been working with Planning and Zoning and getting input on the direction and guidelines the commission is working on for cottage homes. Although zoning density allows for 24 units per acre, the Lerwills are looking at about 10 units per acre. Some of the details of the application are listed below:

- Smaller lot sizes – up to 10/acre
- Several cottage home plans show garages
- Development will be done in phases within each development
- Roads will be privately held and maintained
- Home Owners Association (HOA) will maintain the landscaping, snow removal, etc.
- Gazebos, storage, and mailbox areas are included
- Two parking areas for each unit are included
- Tree list from Planning and Zoning included in development

Land Use Schedule: No public hearing date was set.

Impact Area Expansion: The commission is still working on the details and said it looked favorable for the city. A map of the proposed impact area was sent to the council.

POSSIBLE NEW PLANNING AND ZONING COMMISSIONER: Chrystal Tillary has indicated a willingness to serve, and the Planning and Zoning Commission (P&Z) has recommended her as a person of interest to bring valuable input to the group. Mayor Ogden has also met with her. P&Z is short two people, but commissioners are reserving one spot for the

Sugar-Salem impact area. It is difficult to find people willing to serve with the city's ongoing lawsuit or who do not have their own agenda.

MOTION: It was moved by Councilman King and seconded by Councilman Waddell to ratify Chrystal Tillary as a member of the Planning and Zoning Commission; motion carried.

MAYOR'S REPORT: Mayor Ogden reported on the following items:

Lawsuit Update: No report.

Project Help Mayor Casper Report: The mayor met with Idaho Falls Mayor Rebecca Casper and received copies of their agreement with Rocky Mountain Power and Idaho Falls's Project Help. The mayor will use the copy to mirror an agreement for Sugar City in his concern for households who may need help offsetting rising utility costs through donated funds. Eastern Idaho Community Action Partners (EICAP) will administer the applications and use federal guidelines to decide those who could use the donated funds. Criteria are based on 150% of federal poverty line.

Canal Crossing Report: The water line sleeve to cross the canal south of the proposed well site has been completed. The water was shut off to the canal for annual maintenance and repairs.

Training Meeting Report: The mayor reported that the annual spring AIC training in Idaho Falls was worth the effort to attend. Councilors Barrus, King, Waddell and Ball, Mayor Ogden, P&Z Commission members Dave Thompson and Quinton Owens, and city clerk Wendy McLaughlin attended the day-long training.

Tour City Facilities Report: The mayor encouraged the council and P&Z to take a water and sewer facility tour of the city. City Works Director Arlynn Jacobson will work with schedules and requests.

EQUIVALENT USER RATES FOR SEWER: The council approved using the equivalent residential unit (ERU) calculator for sewer fees, which will begin October 1, 2018. Residential customers are already using the rate system and will not be affected by adopting the ERU calculator. However, sewer base fees are expected to go up which may be confirmed with the current sewer study due out shortly.

RESOLUTION NO. 2018-5 (Approve ERU Calculator for Sewer Fees) – Resolution No. 2018-5 was read by title only by Councilman Barrus.

MOTION: It was moved by Councilman Barrus and seconded by Councilman King to adopt Resolution No. 2018-5. Motion carried. Thereupon the clerk called roll upon the motion.

Those voting aye: Councilors King, Ball, Barrus, and Waddell

Those voting nay: None

A copy of said resolution is attached hereto marked "Attachment #2."

BILLING PROCEDURES: The council has reviewed the proposed changes to the billing procedures ordinance for the city. The predetermination hearing portion will be changed to mirror the parking ticket appeals process. Councilors will entertain a motion to adopt those changes at the next council meeting.

CITY LOGO: Keith Nelson presented to the council four different versions of the logo for them to choose for the final. He gave a brief history of the process starting with the current logo,

gathering citizen feedback and narrowing it down to one. He will bring the council's final choice in press-ready form next time.

DEPARTMENT REPORTS:

COUNCILMAN BARRUS: Councilman Barrus reported that an old waterline feeding the Latter-day Saint church on Center Street has deteriorated so that it needs to be removed. Instead of replacing the pipe the city will use the existing pipe as a sleeve for a 2-inch PVC pipe, which will cost substantially less at around \$2,500 - \$3,000 to fix.

COUNCILMAN WADDELL:

Teton Dam Marathon: Councilman Waddell reported that the Teton Dam Marathon will be held Saturday, June 2. He wanted to know if it was better for volunteers to arrange for their own transportation or for the city to provide the transportation. It was thought best for volunteers to provide their own transport so the city would not be liable. Councilor Ball felt that there could be help arranged to make phone calls for the event.

COUNCILWOMAN BALL:

Arbor Day Celebration: The Tree and Beautification Committee is getting ready for the Arbor Day Celebration on Friday, May 11, at 11:00 a.m. Notices have been sent out with the students. There will be an art contest, with nine prizes of gift cards from Ole's and Brad's Exxon donated by Sharp's Professional Painting. A 12-foot tree will be planted in Heritage Park. Kelly Baker, owner of Teton Turf and Sod, will deliver the tree, which cost \$20 per foot.

Summer Yard and Garden: The committee plans on recognizing beautiful yards and gardens throughout the city from June through September, using the signs from previous years.

AIC Training Meeting: Joy felt the training was valuable, and she was especially interested in the impact the AIC had on legislative action.

COUNCILMAN KING:

AIC Training Meeting: Councilman King reported that he thought the training was helpful, with good insight and counsel. He took 14 pages of notes.

Meeting adjourned at 9:00 p.m.

Signed: _____
David D. Ogden, Mayor

Attested: _____
Wendy McLaughlin, Clerk-Treasurer

PUBLIC ACTIONS OR ACTIVITIES COVERED BY THE OPEN MEETING LAW

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Question No. 8: What constitutes a meeting under the Open Meeting Law?

Answer: The Open Meeting Law defines “meeting” to mean “the convening of a governing body of a public agency to make a decision or to deliberate toward a decision on any matter.” (Idaho Code § 74-202(6) emphasis added). “Decision” is then defined to include “any determination, action, vote or final disposition upon a motion, proposal, resolution, order, ordinance or measure on which a vote of a governing body is required, at any meeting at which a quorum is present.”(Idaho Code § 74-202(1) emphasis added). The term “deliberation” is also a defined term and means “the receipt or exchange of information or opinion relating to a decision, but shall not include informal or impromptu discussions of a general nature which do not specifically relate to a matter then pending before the public agency for decision.” (Idaho Code § 74-202(2)). Note that this does not require any discussion or preliminary decision making. Even the receipt of information relating to a “decision”—i.e., a measure on which the governing body will have to vote—amounts to deliberation, and therefore triggers the definition and requirements of a “meeting” under the Open Meeting Law.

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Question No. 9: Does the term “meeting” include such things as informal gatherings, briefing sessions, informal discussions, attendance at social functions, etc.?

Answer: As noted above, a “meeting” is the convening of a governing body to make a decision or deliberate toward a decision. Additionally, a quorum must be present... The Florida court went on to state that, 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.”

(Page 8)... 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.

Question No. 26: (Page 16) Are discussions conducted via telephones, computers, cell phones (including texting) or other electronic means exempted from the Open Meeting Law?

Answer: As discussed in this manual, the Open Meeting Law applies to the deliberations and discussions between two or more members of a board or commission on some matter which foreseeably will come before that board or commission for action. The use of a telephone to conduct such discussions does not remove the conversation from the requirements of the Open Meeting Law. Similarly, members of a public board may not use computers or texting to conduct private conversations among themselves about board business. A one-way e-mail or text

communication from one city council member to another, when it does not result in the exchange of council members' comments or responses on subjects requiring council action, does not constitute a meeting subject to the Open Meeting Law; however, such e-mail or text communications are public records and must be maintained by the records custodian for public inspection and copying.

The City of Sugar City, Idaho

Resolution No.: 2018 - 5

“A Resolution to Approve the Equivalent Residential Unit (ERU) Calculator Recommended for the Purposes of Assessing Sewer Fees in the City of Sugar City.”

WHEREAS, the Council of the City of Sugar City, Idaho desires to approve the Equivalent Residential Unit (ERU) calculator, which calculator is attached to this resolution, for the purposes of assessing sewer fees in the City of Sugar City;

WHEREAS, the same ERU calculator was recommended by Forsgren Associates, Inc. (engineer) for use with the water study and rates, and is also recommending it for the sewer rate calculations;

WHEREAS, the Council of the City of Sugar City, Idaho believes that this adjustment is acceptable and will provide a basis for moving forward with the anticipated growth and diversity in the city;

WHEREAS, the Council of the City of Sugar City, Idaho also desires to set a single Sewer Base Rate for all units at Seventeen and 12/00 Dollars (\$17.12) per month; and

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF SUGAR CITY, AS FOLLOWS:

The City Council of the City of Sugar City, Idaho hereby approves the attached ERU calculator for purposes of assessing sewer fees in the City of Sugar City and sets the beginning Base Rate for each ERU as indicated above, to begin on October 1, 2018.

PASSED by the Council of the City of Sugar City on this 26th day of April, 2018

APPROVED by the Mayor of the City of Sugar City on this 26th day of April, 2018.

(SEAL)

David D. Ogden,
Mayor

ATTEST:

Wendy McLaughlin,
City Clerk - Treasurer