

MINUTES OF SPECIAL MEETING
SUGAR CITY COUNCIL
WEDNESDAY, JANUARY 11, 2006

Presiding: Mayor Glenn W. Dalling
Meeting convened at 5:45 p.m.
Prayer: Brent Barrus
Pledge of Allegiance

Present: Mayor Dalling; Sharon L. Bell, Clerk; Council members Brent Barrus, Walter Deitz, and Harold Harris; Scott Lee, City Attorney; and Bruce Arnell. Council member Tim Kershaw arrived at 6:10 p.m.

YELLOWSTONE MEADOWS (STILLMAN) ANNEXATION: The Mayor said we had a motion on January 4th that we annex the property, but it died for lack of a second. He said in the hearing there was no opposition to it at all. A discussion was had on the proposed annexation and zone change to R-1; and it was the consensus of the Council that there was no problem with the annexation.

MOTION: It was moved by Council member Barrus and seconded by Council member Harris that we annex the Yellowstone Meadows property as described. The Mayor called for a roll call vote.

Those voting aye: Council members Barrus, Deitz and Harris

Those voting nay: None

Thereupon, the Mayor declared the motion passed.

ORDINANCE NO. 257:

Council member Barrus introduced Ordinance No. 257 entitled:

“AN ORDINANCE ANNEXING CERTAIN LANDS TO THE CITY OF SUGAR CITY, IDAHO; DESCRIBING SAID LANDS AND DECLARING SAME A PART OF THE CITY OF SUGAR CITY, IDAHO; AND AMENDING AND CHANGING THE ZONING MAP OF 2000 OF THE CITY OF SUGAR CITY, IDAHO, AND THE MADISON COUNTY-SUGAR CITY COMPREHENSIVE PLAN OF 1995, TO SHOW SUCH ANNEXATION AND THE CLASSIFICATION OF THE SAME UNDER THE ZONING ORDINANCE OF THE CITY OF SUGAR CITY, IDAHO; AND PROVIDING WHEN THIS ORDINANCE SHALL BECOME EFFECTIVE.”

It was moved by Council member Harris and seconded by Council member Barrus 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: Council members Barrus, Deitz and Harris

Those voting nay: none

Thereupon, the Mayor declared the motion, having been passed by not less than two-thirds of the Council, had been duly carried. It was moved by Council member Barrus and seconded by Council member Harris to adopt said ordinance. Thereupon, the Clerk called roll upon said motion.

Those voting aye: Council members Barrus, Deitz and Harris

Those voting nay: none

Ordinance No. 257 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. 257 in summary or full immediately in at least one issue of the Standard Journal, a newspaper published by the City of Rexburg, Madison County, Idaho.

6:00 p.m. **PUBLIC HEARING (BALL, BROWN, HARRIS & JEPPESEN ANNEXATION:**

Present: Mayor Dalling; Sharon L. Bell, Clerk; Council members Brent Barrus, Walter Deitz, and Harold Harris; Scott Lee, City Attorney; Sharee Palmer, Planning & Zoning Commission; Angela Brown, Standard Journal; Jan Gallup; Verla P. Moss; Bruce King; Dave Thompson; Todd Harris; Ken Brown; Garry Jeppesen; Bruce R. Bills; Tom Gallup; Kim Harris; Wanda Harris; Sandra Ball; Marie Sakota; Ken Sakota; Doug Sakota; Bob Oliphant; and Bruce Arnell. Council member Tim Kershaw arrived at 6:10 p.m.

The Mayor welcomed everyone. Jan Gallup showed a map of the property included in the proposed annexation and the zoning that is identified in the annexation agreement that has been approved by P&Z. It has also been requested and approved by the property owners. Mayor Dalling asked for the property owners to make their comments on the annexation first. Comments were made as follows:

WANDA HARRIS: She feels it is valuable property and is closer to Sugar City than Rexburg. She said she is in favor of the annexation into Sugar City.

6:10 p.m. Council member Kershaw arrived.

TODD HARRIS: He presented a Petition for Judicial Review of Adoption of Annexation Ordinance that they plan to file in the District Court. Three of the property owners plan to sign it tonight, and Ken Brown will make his decision tomorrow. Mr. Harris reported he represents the Harris Family Trust on the property. He gave the Council a report on the events that have transpired in the past four months that led up to the annexation of the property by the City of Rexburg. He expressed concerns about the way Rexburg's public hearing was handled on December 29, 2005. He feels the property owners had a complete violation of their rights. He said Rexburg submitted the annexation ordinance to the newspaper prior to the public hearing and prior to the City Council meeting. He feels the property owners were forced into taking some action on it because they specifically applied to be annexed into Sugar City. He also reiterated that no one from Sugar City made contact with the property owners to try and solicit them to be annexed into Sugar City. He expressed thanks to the Council for their time and requested the Council decide to annex them into Sugar City.

GARRY JEPPESEN: He feels annexation is important to the future of Sugar City and it is important to Madison County so that it brings some economic balance between the two cities and the County. Rexburg has acted in complete disregard for Sugar City's authority by annexing in the middle of Sugar City's process, and they haven't followed state law or procedure in their annexation. He feels the area would be better served by Sugar City's planning. For these reasons, he encouraged the Council to annex this property into Sugar City.

KIM HARRIS: He spoke of the growth of the City of Ammon the last 15 years, and the agreement between the Cities of Idaho Falls and Ammon. He likened it to a neighborly relationship between Rexburg and Sugar City, wherein both cities would have commercial development. He is in favor of this annexation into the City of Sugar City.

SANDRA BALL: Mrs. Ball said she has a unique right-of-way problem with her property. If the other property goes into Rexburg and hers is left out, it creates a real problem for her. She hopes the Council will consider that in their voting tonight.

KEN BROWN: He reported he doesn't have any emotional ties to either city. He feels Sugar City should continue their annexation process because it will make his property a little more valuable and a little easier to develop. They initially requested annexation into Rexburg and were turned down. They have had developers come to them and time costs money when it comes to developing. He realizes the benefit of working together with his neighbors and believes the whole area becomes a little more valuable when they work together and develop a master plan for 250 acres instead of trying to develop 80. It makes everyone's property a little more valuable. He encouraged Sugar City to continue with their process.

JAN GALLUP: Jan said tonight she represents the Comprehensive Plan Committee of Sugar City which she is chairman of. As part of revising the comprehensive plan we requested that a 20-year growth impact study be done, which was done by the Dyer Group. In that study it was decided by the Comprehensive Plan Committee that we should include this property and it shows the anticipated land use for that area. She said this happened (back in 2004) before they talked to any of the property owners. She feels the Comprehensive Plan Committee saw the future, realized how important that property is to Sugar City, realized its best use, and all of our maps that we have proposed for our comprehensive plan have included that property and have included it as commercial and manufacturing. She submitted to the City Council for their review the comments that were submitted by the public at P&Z's public hearing on December 13, 2005. There are several petitions – some from Salem, some from Sugar City, with hundreds of signatures supporting these property owners in their annexation into Sugar City. On a personal note, Jan expressed she is in favor of this annexation and believes it would be a great benefit to the City.

VERLA MOSS: She said she is very much in favor of this annexation and will do anything she can to help further the process.

BRUCE BILLS: He testified as a former member of P&Z and a member of the Comprehensive Plan Committee. They spent many hours discussing this area and realized that it was an area that was ripe for misuse if we did not bring it into the impact area and would have a detrimental impact if it weren't developed properly and under good ordinance to those of us who were living in the City. This is an area of real importance to the City. He is in favor of the

annexation and would like to recommend it.

TOM GALLUP: He feels the property is close to Sugar City and would be valuable to help with the base that we need to expand our commercial and residential. We need the commercial to complement that. He feels it is valuable and should be annexed into Sugar City.

6:50 p.m. The public hearing ended and the Council resumed their special meeting.

P&Z RECOMMENDATION ON STILLMAN ZONE CHANGE: Sharee Palmer said P&Z had their public hearing on the Stillman zone change. There was not a whole lot of public comment. The Planning & Zoning Commission makes the recommendation to City Council that the application for the Stillman zone change be accepted with the zone from M-2 to R-2, and that they set a public hearing date.

MOTION: It was moved by Council member Deitz and seconded by Council member Harris to set a public hearing for the Stillman zone change for Thursday, February 9, 2006, at 6 p.m.; motion carried.

BALL, BROWN, HARRIS & JEPPESEN ANNEXATION: The Mayor asked for each Council member's comments on the annexation.

Council member Kershaw: Tim expressed support for the property owners. It is his position that we not move to annex the property at this time until such time as the Petition for Judicial Review has been submitted. He is in favor of supporting them in what they want to do. He suggested we put ourselves on as firm a ground as possible and take a very cautious approach to this whole thing. He feels the property owners want to know we support them.

Council member Deitz: Walter is in favor of the annexation, and asked for clarification on why we would have to wait to approve the annexation. The Mayor said he called the AIC today and talked to Ken Harward, who suggested to make it perfectly legal to annex them that we wait until the judicial review is officially filed. Attorney Lee agreed that we should wait until the petition has been filed. He said until someone actually files a challenge to the annexation that has taken place, it is deemed to be valid. He thinks it would be improper for the Council to vote to annex a piece of property that has been deemed to be validly annexed into Rexburg. Once the petition has been filed, the validity of that annexation now has been brought forward as a dispute. Then we can go ahead and continue on with our procedure. He said we could annex it tomorrow night. Walter said it appears to him that the City of Rexburg didn't follow all the proper laws and procedures. He feels like it wouldn't hurt us to go ahead and annex it. Attorney Lee said unless someone challenges it, all of those defects are considered waived and it is considered to be proper.

Council member Barrus: Brent is in favor of the annexation and feels we need to proceed with it. We need to do it legally and up front. What we have done so far has been done according to our statutes and ordinances, and we've done it up front not holding anything back.

Council member Harris: Harold would like the property owners to realize that he is in full support of annexation and if waiting for this to be filed is giving us a little step in a more positive direction, he thinks that would be a positive move to make. He is totally in support of the annexation.

EXECUTIVE SESSION:

7:25 p.m. It was moved by Council member Deitz and seconded by Council member Barrus to go into executive session for the purpose of discussing personnel and potential litigation. The Mayor called for a roll call vote:

Those voting aye: Council members Kershaw, Barrus, Deitz and Harris

Those voting nay: None

Thereupon, the Mayor declared the motion passed.

8:40 p.m. The executive session ended and the special Council meeting adjourned.

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

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