

MINUTES OF REGULAR MEETING
SUGAR CITY COUNCIL
THURSDAY, SEPTEMBER 14, 2017

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

Present: Mayor David D. Ogden; Clerk-Treasurer Wendy McLaughlin; Councilmen Bruce King, Brent Barrus, Joe Cherrington, and Greg Venema; City Public Works Director Zane Baler; City Code Enforcement Officer Becky Edwards; City Building Inspector Cliff Morris; City Design Review Chairman Paul Jeppson; Chairman Dave Thompson of the Planning and Zoning Commission; Forsgren Associates Engineer Randy Johnson; Citizens for the Rule of Law Lead Vaun Waddell; Citizens Ray McDougal and Blake Walker for the Old Farm Estates Division #2, Block 12, Development.

MINUTES: Mayor Ogden asked if there were any corrections to the minutes of the regular meeting held on August 24, 2017. Each councilman had a copy of the minutes prior to the meeting. It was moved by Councilman Cherrington and seconded by Councilman King to accept the minutes; motion carried.

RECONCILIATION REPORTS: Wendy presented the August reconciliation reports for the General Fund. It was moved by Councilman Barrus and seconded by Councilman Venema to accept the August reconciliation reports for the General Fund; motion carried. Wendy presented the August reconciliation reports for the Utility Fund. It was moved by Councilman Cherrington and seconded by Councilman Barrus to accept the August reconciliation reports for the Utility Fund; motion carried.

Wendy presented the current bills in the amount of \$125,568.61. It was moved by Councilman Venema and seconded by Councilman Barrus to pay the current bills, together with all regular September bills; motion carried.

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

Old Farm Estates Division #2, Block 12, Preliminary Plat: The commission unanimously recommended that the City Council approve the preliminary plat application of Old Farm Estates Division #2, Lot 1, Block 12, with a motion that the council address some concerns.

Land Use Schedule: The commission is working on streamlining the schedule to remove many of the "Special Use" permits that are cumbersome to the application process and not needed. The mayor reminded the commission that the document needs to be approved and sent on to the council since it bears high importance to land use decisions. The commission has been working on revising the document for over a year.

Impact Area Expansion: Madison County Planning and Zoning Administrator Bradley Peterson is open to Sugar City needing viable commercial areas to grow. A meeting with Rexburg, the county, and Sugar City will be held to discuss the expansion proposal.

FINDINGS OF FACT – OLD FARM ESTATES DIVISION #2, BLOCK 12,

PRELIMINARY PLAT: The mayor reviewed with the council the Findings of Fact, Conclusions of Law and Recommendation from the Planning and Zoning Commission. He addressed items requested by the commission from the public hearing:

- **Water/Sewer** – The recent sewer study completed by Forsgren Associates showed the city has 40% unused capacity in the line to Rexburg and 30% capacity at the Kmart lift station. There is more than enough capacity to take care of the new development. The city also issued a “Will Serve” letter for water required by the Idaho Department of Environmental Quality (DEQ) on the Division #2 Final Plat. Water is available.
- **Traffic Congestion** – Fifth South will be wider than all the other streets in the city and will accommodate extra traffic from the Old Farm Estates development. This development will happen over time, with roads maintained and revised to accommodate future needs.
- **Law Enforcement** – The city currently contracts with Madison County for police services. The city will grow its police force as the tax base and population warrants. The mayor noted that the City of Ammon, population 15,000, still contracts out its police force to Bonneville County.

Councilman King asked that the commission cite provisions of the Comprehensive Plan and Zoning Ordinance rather than just stating in the Findings of Fact that an application complies with these documents. This would show a more reasoned decision.

Mr. King also was concerned with the Covenants, Conditions and Restrictions (CC&Rs) prepared for the development. The council reminded Councilman King that CC&Rs are rules that govern the neighborhood between the developer and owners. The city’s only involvement is to enforce stricter rules of the city code, if they exist, and to see that the CC&Rs do not violate the Federal Fair Housing Act. Neighborhoods with CC&Rs that are less restrictive than requirements of the city code are still governed by the code.

Ray McDougal, the developer who has worked to develop the CC&Rs to address many concerns, plans to complete the development himself. But, if not, he has designed options that he believes would improve the development’s continuity.

MOTION: It was moved by Councilman Venema and seconded by Councilman Barrus to approve the Preliminary Plat Application of Old Farm Estates, Block 12, and accept the Findings of Fact, Conclusions of Law and Recommendation (See Attachment #1); motion carried, with Councilman King abstaining.

FINDINGS OF FACT – SPECIAL USE PERMIT – DALEN TOLMAN DUPLEX: Mr Tolman sold his property and pulled the special use permit application.

MAYOR’S REPORT: The mayor reported on the following items:

Old Farm Estates-Citizens for the Rule of Law Mediation Update: The first mediation meeting was held today in Idaho Falls with Scott R. Hall, of NHPT Law (Nelson,

Hall, Parry, Tucker), who is an experienced mediator and was accepted by all parties (Ryan and Jeff Lerwill, City of Sugar City, and Citizens for the Rule of Law). No settlement agreement was reached. No further mediation is planned. The mayor asked that the Motion for Reconsideration be put on the next meeting agenda for an official council decision.

YMCA Report: The mayor met with several interested parties in the first organizational YMCA meeting. A formal advisory committee will be formed to conduct a Needs Assessment and Market Study – see below:

- Needs Assessment – surveys will be conducted of the possible service region.
- Market Study – an independent third party will conduct a six-month study to see if a YMCA is financially feasible.

Medical Center and Possible Block Grant Update: A medical center manager/investor is willing to sign a letter of intent to locate a medical facility close to the YMCA to take advantage of the facility and possibly trade services. The medical center would, in turn, qualify the development for a potential economic block grant, which would help install the infrastructure. Ted Hendricks, manager of The Development Company, has been asked to go after the Idaho Community Development Block Grant (ICDBG).

City Animal Code Possible Revision: The mayor asked the city council to consider revisiting the much-discussed animal code and possibly amending it to allow certain prohibited animals for personal use, if conditions are met. The council agreed to further discuss the issue.

Sub Preliminary Plat Process: Because of the cumbersome, slow process experienced by Ray McDougal, Block 12 developer, in seeking a sub preliminary plat from the city, the mayor asked the council to consider amending the code to expedite and streamline sub plats to avoid wasting time and money on needless formalities to ensure already existing resource and condition standards. Bill Forsberg, city attorney, is looking into other ordinances used by other cities to accomplish this. Councilman King asked that Attorney Bill Forsberg not be involved in the process at this time to save the city money.

ORDINANCE NO. 330_2017 (Amending the Definition of Police Officer to Authorized Officer):

Ordinance No. 330_2017 was introduced by title only by Councilman Cherrington entitled:

“AN ORDINANCE AMENDING THE CITY CODE TO REPEAL THE PRESENT SECTIONS 1-3-2, 3-1-14, 4-1-13, 4-3-2, 4-3-5, 4-4-1, 5-2-1(A), 5-2-5(A)(3), 5-2-6(A)(1), 5-2-7(b)(2), 5-2-8(B)(2), 5-2-10(A), 5-2-11(E), 6-1-2(A)(2), 6-1-2(B)(2), 6-1-2(C)(1), AND REPLACE THEM WITH REVISED SECTIONS 1-3-2, 3-1-14, 4-1-13, 4-3-2, 4-3-5, 4-4-1, 5-2-1(A), 5-2-5(A)(3), 5-2-6(A)(1), 5-2-7(b)(2), 5-2-8(B)(2), 5-2-10(A), 5-2-11(E), 6-1-2(A)(2), 6-1-2(B)(2), 6-1-2(C)(1), AMENDING THE DEFINITION OF AUTHORIZED OFFICER AND AMENDING VARIOUS SECTIONS WHICH REFER TO AUTHORITY OF POLICE OFFICER OR LAW ENFORCEMENT TO NOW READ AUTHORIZED OFFICER, WHICH WILL INCLUDE THOSE GIVEN AUTHORITY BY THE CITY TO ENFORCE THIS CODE.”

It was moved by Councilman Cherrington and seconded by Councilman Venema to waive reading of the ordinance on three different days and to place it upon its final passage. Thereupon the clerk called roll upon the motion.

Those voting aye: Councilmen King, Cherrington, Venema, and Barrus
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 Councilman Barrus and seconded by Councilman Venema to adopt this ordinance. Thereupon, the clerk called roll upon the motion.

Those voting aye: Councilman Barrus, Venema, Cherrington, and King
Those voting nay: None

Ordinance No. 330_2017 was thereupon declared by the mayor to have been duly passed by not less than two-thirds of the council. The clerk will publish Ordinance No 330_2017 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.

WATER SYSTEM IMPROVEMENTS POTENTIAL RATES: Randy Johnson, of Forsgren Associates, reviewed with the council the water rate structure increase to fund the new water system. Some revisions were made after going over the numbers again. By choosing a 30-year loan over a 20-year one the city estimates it can fund 100% of the water infrastructure replacement costs (base fees) by raising the existing \$34 ERU to \$45. This option minimizes costs to citizens and at the same time funds 100% of projected replacement costs, negating future rate hikes. The current user rate fee at \$0.90/thousand gallons is sufficient to cover operation and maintenance costs, Johnson said. Another water meeting will be held next Wednesday, September 20, 2017, at 7:00 p.m. to help inform the public and answer any questions.

MOODY WATER LINE ESTIMATES: Randy Johnson, of Forsgren Associates, proposed a new water line project that could save the city over half a million dollars. The proposal takes the city water line down the back inside of property owners facing Idaho Highway 33 and 7th West. The new route would be less intrusive and could offer water service to all adjoining residents and businesses northwest of the Moody Road. Water service is necessary to help ensure Sugar City's boundaries are protected through serving businesses that otherwise might be drawn to Rexburg to get water and sewer services. A Local Improvement District (LID) will need to be established to finance the project. Existing businesses can recoup investment costs from future developments and buy-in costs to hook into the city water-delivery system. DEQ would likely finance the project and offer a low interest rate of 1.5%. The council is supportive of the project and of maintaining the city's boundaries.

2017 CONSTITUTION WEEK PROCLAMATION: The proclamation was introduced, designating September 17 through 23 as Constitution Week. It was moved by Councilman King and seconded by Councilman Cherrington to adopt the 2017 Constitution Week Proclamation; motion carried. A copy of said proclamation is attached hereto marked "Attachment 2."

MADISON COUNTY COMMISSION PUBLIC HEARING ON GRAVEL PITS: Councilman King asked the council to review a letter on the city website of the municipality's past position on gravel pits and then proposed that the city prepare a letter of the city's current

position to be read at the public hearing before the Madison County Commission next Wednesday, September 20, 2017. Madison County's Planning and Zoning Commission has proposed an overlay zone, which would allow gravel-pit mining in more areas. Councilman King will draft a proposed letter and send it to the council for review. The council was invited to respond back to the mayor in a timely manner in order to finalize an official position for presentation at the hearing.

DEPARTMENT REPORTS:

COUNCILMAN KING: No report.

COUNCILMAN CHERRINGTON: No report.

COUNCILMAN BARRUS: Councilman Barrus reported that the city will spend about \$54,000 to replace three flow meters required by DEQ on existing water wells. The meters must be installed by the end of the year.

COUNCILMAN VENEMA: No report.

Meeting adjourned at 10:05 p.m.

Signed: _____
David D. Ogden, Mayor

Attested: _____
Wendy McLaughlin, Clerk-Treasurer

**Before the City of Sugar City
Planning and Zoning Commission**

In the Matter of an Application for a Preliminary Plat Approval)	
Ray McDougal)	FINDINGS OF FACT,
427 Stegelmeier Ln.,)	CONCLUSIONS OF LAW
Rexburg, ID 83440)	AND RECOMMENDATION
Applicant.)	
)	

FINDINGS OF FACT

1. Ray McDougal of 427 Stegelmeier Ln, Rexburg, ID 83440, submitted an application for Preliminary Plat Approval on August 1, 2017. The affected property located south of W 4th S and east of S 3rd W, Sugar City Idaho, 83448 is described as follows:

Lot 1, Block 12 Old Farm Estates, Division 2

2. Mac Brothers Holdings LLC is the record owners of the property featured in the preliminary plat. Ray McDougal is an owner/officer of Mac Brothers Holdings LLC.

3. The property consists of approximately 5.592 acres.

4. A public hearing on the application was held on August 23, 2017 at 7:00 p.m. at the Sugar-Salem High School Auditorium.

5. Shelley Jones attended the hearing. She reported that the application was complete, and that all fees had been paid. All required notices regarding the hearing had been published, mailed and posted in a timely fashion as required by the Sugar City Zoning Ordinance and Idaho State law. The affidavit of publication and affidavit of mailing and posting were entered in the record and are included with this recommendation.

6. There were 17 members of the public in attendance at the public hearing that signed in for this hearing, and indicated if they were for, against, or neutral.

7. A letter was read from Ray McDougal who was unable to attend the meeting. He believed that what they were doing was good for the city, and didn't change the amount of growth for the city, as that issue had already been decided.

Blake Walker presented the plans for the subdivision for Ray McDougal. The property is zoned **R3** which allows for 16 units per acre. The property will have 88 units which are within the code limits for density. There will be 2 parking spaces per unit and there will be additional visitor parking. There will be sidewalks and a 24' lane to allow easier access for turning around. Mr. Walker went through the application requirements to verify that the application submitted is complete.

Submitted written testimony: None

Public Hearing:

Marked for:

- Ryan Lerwill - **verbal testimony** in fact for Jeff Lerwill– applauded these men for the long hours in studying and following code, these are 2 good local men who believe in this development and who want to build here & beautify our community.
- Vaughn Price - **verbal testimony** – support Ray McDougal’s development, he is a man of integrity and an engineer who will do well, his interest is not to distract from lifestyle of city but follow the code and bring something good here.
- Stephen Peters - **verbal testimony** –development is inevitable, wondered if water resources will be available, and if developers are putting in water tank and resources for their development. Hates to see city grow but knows it is going to happen but hope current citizens will not have to pay for the services for the development.
- Katherine Williams - **verbal testimony**-- this is a good development because it is local men that have an interest and love for the community. These men are men of integrity and are good men.
- Lance Taylor - **verbal testimony** – doesn’t necessarily disagree with those that are not in favor, we need to make sure things are done properly. Talked about growth of BYU-I, by 2020 it will have doubled the population of Madison County since the university became a 4 year college. We did not think to ask college to help pay for the impact, we are feeling growing pains here in this city. Growth will take place; we should be willing to accommodate growth that will come which will mean multi-family housing. Married student housing is hard to find in Rexburg.
- JoAnn Peters
- Matthea Walker

Marked neutral:

- Necia Hoopes

Marked against:

- Barbara Lusk - **verbal testimony** –had miscommunication with city for paperwork concerning this public hearing. asked for information regarding Old Farm Estates Division #2 and was given older application and older plat map, she is open to this application after hearing about it, but opposes it until paperwork issues are taken care of.
- Debra Thompson - **verbal testimony** –stated these plans looked better and was thankful for bringing density down, talked with ITD, they are not putting in a right turn hand lane and asked if they do, what would happen to her property and was told that they could condemn her property and offer her fair market value for it. She asked “What do citizens have to give for this development?” She is not against development but is against high density.
- Terry Harris - **verbal testimony** – might be neutral, wondered if we have things zoned right because most people want single family homes. Apartments devalue homes. High density, good people or not, brings more noise, more confusion, and more kids where people bought single family homes. More law enforcement is something we need to consider if we are to grow and listen to complaints of citizens. New developments should bring in own water and sewer lines. Concerns about lack of desire in this community to address ordinance issues.

- Elaine King - *verbal testimony* – only map she’s seen is plat map displayed, concerned information is missing and not available to public. Hadn’t heard city is capable of putting an additional 88 units in. Wondered if developer is really complying, is there 10% open space there?
- Greg Preslar - *verbal testimony* – we need to be careful, we can’t go backwards. Feels citizens are getting worn down, and concerns are not being addressed. Citizens want community to stay single family residents.
- Elaine Preslar
- Catherine Nielsen
- Chrystal Tillery
- Helen Harris

8. The density is set by the zone, and the divisions requested do not alter the amount of density allowed by zoning. Any testimony regarding density or type of structure is not relevant for this hearing because zoning is not at issue.

9. Open space requirements are met in this application.

CONCLUSIONS OF LAW

The Sugar City Planning and Zoning Commission concluded regarding the application that:

1. The proposal complies with the Comprehensive Plan.
2. The proposed preliminary plat complies with the Zoning Ordinance.
3. The proposal complies with applicable state and federal laws and regulations.

PLANNING AND ZONING COMMISSION RECOMMENDATIONS

Concluding all of the above, the Sugar City Planning and Zoning Commission unanimously recommend that the City Council approve the preliminary plat application of Old Farm Estates Division #2 Lot 1 Block 12.

Signed and Dated this ____ day of September, 2017.

By: _____
 Chairman,
 Planning and Zoning Commission

Attest:

 City Clerk-Treasurer

2017 CONSTITUTION WEEK PROCLAMATION

WHEREAS: The Constitution of the United States of America, the guardian of our liberties, embodies the principles of limited government in a Republic dedicated to rule by law; and

WHEREAS: September 17, 2017, marks the two hundred thirtieth anniversary of the framing of the Constitution of the United States of America by the Constitutional Convention;

WHEREAS: It is fitting and proper to accord official recognition to this magnificent document and its memorable anniversary, and to the patriotic celebrations which will commemorate it; and

WHEREAS: Public Law 915 guarantees the issuing of a proclamation each year by the President of the United States of America designating September 17 through 23 as Constitution Week,

NOW, THEREFORE I, David Ogden by virtue of the authority vested in me as Mayor

of the City of Sugar City do hereby proclaim the week of September 17 - 23 as

CONSTITUTION WEEK

and ask our citizens to reaffirm the ideals the Framers of the Constitution had in 1787 by vigilantly protecting the freedoms guaranteed to us through this guardian of our liberties and urge all citizens to study the Constitution, and reflect on the privilege of being an American with all the rights and responsibilities which that privilege involves.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the Seal of the (State or City) to be affixed this 14th day of September of the year of our Lord two thousand seventeen.

Signed  SEAL Attest _____