

MINUTES OF REGULAR MEETING
SUGAR CITY COUNCIL
THURSDAY, JUNE 8, 2006

Presiding: Glenn W. Dalling
Meeting Convened at 6:30 p.m.
Prayer: Brad Orme
Pledge of Allegiance

Present: Mayor Dalling; Sharon L. Bell, Clerk; Marcie A. Smith, Treasurer; Councilmembers Harold Harris, Walter Deitz, Bruce King and Brad Orme; Sharee Palmer, Planning & Zoning Commission; Scott Lee, City Attorney; Jan Gallup; Attorney Richard Smith; Garry Jeppesen; and Andrew Redd.

The Mayor asked if there were any corrections to the minutes of the regular meeting held May 25, 2006. Each councilmember had a copy of said minutes prior to the meeting. There was a question about Jan Gallup representing Sugar City as the petitioner in a rebuttal at the public hearing. It was moved by Councilmember Harris and seconded by Councilmember King to accept the minutes of May 25, 2006, as corrected; motion carried.

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

Marcie presented the current bills in the amount of \$59,258.19. It was moved by Councilmember Deitz and seconded by Councilmember Orme to pay the current bills, together with all regular June bills that have not yet been received; motion carried.

CITIZEN INPUT: There was no citizen input.

MAYOR'S BUSINESS:

Road through Sun River Lake Estates: The Mayor reported Dusty Cureton from the County is appalled at the road through Sun River Lake Estates (Highway 33 access on Highway 20). He is going to the County Commissioners for approval for the County to go in and grind up the asphalt, etc. They will do all the work if the City will come up with about \$7,000 to buy the asphalt. Discussion was had. **MOTION:** It was moved by Councilmember Orme and seconded by Councilmember Deitz that we approve the expenditure of \$7,000 for asphalt, part this year and part next year, to help pay the County for doing the road through Sun River Lake Estates; motion carried.

Dan Thomas Retirement Party: A retirement open house for Dan was discussed. It will be held at the City Council meeting on June 22. The Mayor suggested we make a presentation and pay tribute to Dan for his long years of service. We will promote it, and invite

people to come and wish him well. We will have some refreshments, etc. Dan will work one day a week for two months. The Mayor suggested we advertise the open house in the newspaper and on the marquee.

Bike Path: The Mayor explained a problem with the curving of the bike path. He said something to Dick Dyer about making it straight and didn't realize what a stir it would make. Dick contacted Donn Carnahan from Keller Associates, who is coming over next Monday. We are supposed to meet with the County and the City of Rexburg to see if we can straighten that out. The Mayor expressed his embarrassment about bringing up the matter. A discussion was had on using the little curved-out areas for landscaping.

DISCUSSION ON TITLE 8, BUILDING AND SITE ORDINANCE: Discussion was held, but no action was taken.

JAN GALLUP:

Ordinance Revisions: Jan reported she sent to the Council for review Chapter 6 of Title 9, which is the zoning ordinance. No discussion was had on it. We will get into Chapter 9A, 9B and 9C, impact area, after we do Chapter 6. The Mayor suggested we have copies of ordinance revisions on our desks when we have Council meetings.

DEPARTMENT REPORTS:

COUNCILMEMBER KING:

Economic Development Committee: There was a discussion on how we can encourage further economic development in Sugar City. Jan Gallup reported in the comprehensive plan it states that we will have an economic development committee to try to come up with ways to encourage economic development. We are part of MEDCO, who does a lot for us. The Mayor and Councilmember Orme are on the MEDCO board. Sharee Palmer reported the City should step up and promote itself. A committee could do this. Someone from the City Council should be part of the committee. The committee could work in conjunction with MEDCO to promote Sugar City. The Mayor feels Councilmember Orme needs to be the key player in it because he goes to the MEDCO meetings. He suggested we give this assignment to Brad to see what he can do about it and have him bring back a report. Then we will take an official action.

COUNCILMEMBER DEITZ: Walter reported the 3rd North lift station pump that was ordered last October has not been installed yet. Parkers are going to come and pump it down and clean it out. They have arranged to check it out and install it. We need to make a decision on how to charge for water meters or water hookups for a bond reduction to multiple housing units in the City. This should be on the agenda for our next meeting.

COUNCILMEMBER ORME: Brad reported the annual breakfast is next month, and he will need a little help. We talked about having a parade next year in conjunction with the breakfast. The Mayor suggested having some entertainment or music during the breakfast.

COUNCILMEMBER HARRIS:

State Highway Department: Harold reported he would like to approach the State Highway Department about our poor recognition on the highway signs. You can drive from Ashton this way and the only time you see Sugar City listed on a street sign is just on the south end of Ashton. That's the only time Sugar City is mentioned. On the north it goes from Rexburg to Thornton. The Mayor reported there is a State Highway meeting that he and Harold will be going to on June 14th. He said there are some approaches on the top of the overpass that need to

be repaired. He will visit with Tom Cole about getting that fixed.

Jeppesens' Access Over Bike Path: A discussion was had on the agreement that was discussed last Council meeting; also Harold's meeting this morning with Garry Jeppesen's brother. The sign on 1st South got damaged in going back and forth. Garry reported a hired man hit the sign; however, the County had previously hit the sign when they were working on the bike path. Harold reported he felt like the Jeppesen Brothers have felt like the sewer line is a real detriment to their property. So he feels that we should move it back into the nine-foot easement, but that would shut off ingress and egress from the property. He asked Garry what that would do to them.

Garry Jeppesen History: Garry reported he served on the City for nine years. He is not a City resident. He came home one day and noticed there was a City sewer line about 20 feet into his property. He asked questions and the City said they would get back to him. He came to the City over and over for eight to ten months and got no reaction from the City. This forced him to go to an attorney and get a nice letter to the City that they need to do something about this. Two City representatives came out and proposed that they roughened up the ground when they put the sewer in there, so we'll bring in some gravel and smooth it out and that will make everything fine. Garry said that wasn't good enough, it devalued his property. So there were some proposals made and then it was dropped. He is serving on P&Z and everyone knows he owns that property. Everybody knows about the bike path being there except me. He went on to say he came by one day and his property was all dug up ten feet out. The City said they were going to put a bike path in there. We have a nine-foot easement. We can put an eight-foot bike path in there. Garry maintains the City has no right to put that bike path there. He gets the feeling from the Council that he is the bad guy. Jeppesen Brothers are being talked badly about.

Garry said the main access to his property is across the property on both ends. He leased that property from the railroad. For 19 years he drove into it from both ends. Six years ago the City bought it and he bought it from them. For six years he has come in from both ends. He asked Attorney Lee how many years do you have to access across somebody's property before you have an easement. He said nobody contested it for 25 years. Councilmember Harris reported you can't establish a right-of-way on public property. Garry said it was railroad property previous to that. Now he said he comes in to negotiate this and he is paying for an easement that he already has. He's gone back to his brothers and tried to get them to agree to it. They are hesitant and haven't agreed to it.

Garry said there is no agreement. It is null and void. He feels he already has an easement across the south and the north ends because he has used it for 25 years – 19 years prior with the railroad and six years with the City. He feels the agreement was not finalized. He was upset that someone took pictures and also called the sheriff, and feels badly that the Council would treat someone this way that had served on P&Z for nine years. He feels the City should grant the easement for them letting the sewer stay there and the bike path now. The trucks are empty when they cross 1st South so there has been no damage to that asphalt in the 25 years that he can see.

A discussion was had on what the City could do to make the situation right with the Jeppesen Brothers. Garry informed the Council that there is no agreement now, they need to move the sewer off their property, and there is no bike path easement. They already have an easement on the north south and the south side end and they will continue to use them. They have established that easement over 25 years. He reported they had no notification that the bike path was coming on his property. Garry Jeppesen provided the above history.

Ball, Brown, Harris, Jeppesen Annexation: Garry reported he noticed the Council is having a negotiation meeting tonight with Richard Smith and wondered if the property owner would be able to sit in on that so the property owners will be aware of what is going on between the two cities, or will they be excluded again. He was assured that a decision would never be made by the City without the property owners' input and approval. Garry feels the property owners are completely ignored in this. The two cities are negotiating without them and they are excluded. It is on the agenda tonight. Once again there is going to be a meeting on it. The Mayor reported we are trying to get something to present to them.

Garry Jeppesen left and the Council discussed the matter further. Attorney Lee expressed a desire to give his opinion but wants to do it in executive session.

EXECUTIVE SESSION:

8:55 p.m. It was moved by Councilmember King and seconded by Councilmember Deitz, pursuant to Title 67-2345(f), that we move into executive session to discuss possible pending litigation. The Mayor called for a roll call vote:

Those voting aye: Councilmembers Harris, Deitz, King and Orme

Those voting nay: None

Thereupon, the Mayor declared the motion passed.

9:05 p.m. The executive session ended and the regular Council meeting reconvened.

MOTION ON JEPPESEN ISSUE: It was moved by Councilmember King and seconded by Councilmember Deitz that we authorize our attorney, Scott Lee, to discuss what might be done in this conflict with the Jeppesen issue, what might be done to resolve it; and that the earlier agreement that we had talked about be the starting point for the discussions; motion carried.

RICHARD SMITH – EXECUTIVE SESSION: The Mayor reported we are supposed to go into executive session to meet with Richard Smith. Mr. Jeppesen is requesting permission to be in that meeting. Attorney Lee recommends that we exclude the property owners from it. He isn't sure what Mr. Smith is going to say. We have four pending legal matters that involve the annexation, and he feels it would be better to exclude the property owners. Councilmember King read the motion, which was made two weeks ago in our meeting after we had had an executive session. "In view of the fact that the position of Sugar City Council has been to encourage compromise between Rexburg and Sugar City, subject to the approval of the property owners, it is apparent in our meeting with the property owners tonight that they do not approve. It was therefore moved by Councilmember King and seconded by Councilmember Harris that we authorize our attorney to visit with mediator, Richard Smith, about these concerns." I restate that motion for the benefit of Garry that our position has been, and it was formally stated, that we were concerned about the concerns of the property owners; and that leaving them out of an executive session, the intention would not be to omit their input and concerns.

EXECUTIVE SESSION:

9:10 p.m. It was moved by Councilmember King and seconded by Councilmember Harris, pursuant to Title 67-2345(f), that we move into executive session to discuss litigation matters.

The Mayor called for a roll call vote:

Those voting aye: Councilmembers Harris, Deitz, King and Orme

Those voting nay: None

Thereupon, the Mayor declared the motion passed.

10:50 p.m. The executive session ended and the regular Council meeting reconvened. The Mayor and Council thanked Richard Smith for coming. Mr. Smith assured the Mayor and Council that he does not share anything about what is said in executive session with anybody.

EXECUTIVE SESSION:

10:52 p.m. It was moved by Councilmember King and seconded by Councilmember Harris, pursuant to Title 67-2345(b), that we move into executive session to discuss personnel issues.

The Mayor called for a roll call vote:

Those voting aye: Councilmembers Harris, Deitz, King and Orme

Those voting nay: None

Thereupon, the Mayor declared the motion passed.

11:40 p.m. The executive session ended and the regular Council meeting reconvened.

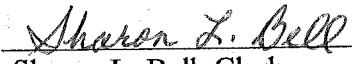
MOTION: It was moved by Councilmember King and seconded by Councilmember Orme that we prepare a letter delineating the terms of our contract with Jan Gallup as an independent contractor; motion carried.

Meeting adjourned at 11:45 p.m.

Signed:


Glenn W. Dalling, Mayor

Attested:


Sharon L. Bell, Clerk