

MINUTES OF REGULAR MEETING
SUGAR CITY COUNCIL
THURSDAY, MAY 25, 2006

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

Present: Mayor Dalling; Sharon L. Bell, Clerk; Councilmembers Harold Harris, Walter Deitz, Bruce King and Brad Orme; Sharee Palmer, Planning & Zoning Commission; Jan Gallup; and Vaun Waddell.

PUBLIC HEARING (TITLE 8, BUILDING AND SITE ORDINANCE): The Mayor welcomed everyone and turned the time over to Jan Gallup to give a brief presentation. Jan reported Title 8, Building and Site Ordinance, has gone to public hearing three previous times. City Council has worked very hard to make some improvements to this ordinance. Jan feels at this point that the citizens want this ordinance and hopefully the Council will approve it. She said it contains five chapters. The first one deals with the building code; the second one is design review, which establishes a design review board and a process for making application for design review; Chapter 3 is design standards; Chapter 4, landscape standards; and Chapter 5, signage. Jan reported in all of the public hearings there has not been anyone opposed to approving this ordinance.

The Mayor reported Vaun Waddell is here tonight and would like to testify against approving the ordinance.

VAUN WADDELL, 275 E. Appaloosa. He stated he has two motives for coming in tonight: (1) concerns for his own property values and potential for development; and (2) concern for Sugar City. He talked about improvements in town since he moved here six years ago. He thanked the Mayor and Councilmen for their service to the community. He expressed concern with Title 8, Chapters 2, 3 and 4; and he believes if Sugar City is to have design review, it should be by the City Council. The people's elected representatives should determine whether a building application meets the City's standards. Mr. Waddell feels these chapters place decision power in the wrong places.

Jan reported that according to our newly accepted ordinance, because the City is the petitioner for this change, the petitioner is allowed a rebuttal time. For the record she desired to make some statements.

REBUTTAL: JAN GALLUP feels we need to be aware that in our accepted and approved comprehensive plan under Chapter 16 (Community Design) it states under Goal 2 that we want to maintain a small-town, family-oriented atmosphere. Jan discussed Objectives 1 through 11 of said Goal 2. She also discussed the next section on Community Design Implementation. She pointed

out, with the changes that the City Council has made, that design review is allowed a certain amount of authority but not to the point that something can't come before the Council for review or final decision. She also pointed out that design review takes in more than downtown Sugar City. As we look to grow and develop, design review will take in the impact area, Yellowstone Meadows if it becomes applicable, and any other commercial, industrial, or manufacturing development that we have come into the City. She feels we need to look at the bigger picture. Also, design review can meet, if needed, twice a month; P&Z meets twice a month; so someone requiring design review would have a 14-day wait at the maximum.

The Mayor asked if there were any other negative or positive comments on this design review ordinance. He declared the hearing ended.

6:50 p.m. The public hearing ended and the Council convened their regular meeting.

Present: Mayor Dalling; Sharon L. Bell, Clerk; Councilmembers Harold Harris, Walter Deitz, Bruce King and Brad Orme; Scott Lee, City Attorney; Sharee Palmer, Planning & Zoning Commission; Jan Gallup; Lois Webb; Todd Harris; Garry Jeppesen; Sandra Ball; and Attorney Kent Higgins.

TITLE 8, BUILDING AND SITE ORDINANCE: Discussion was had on Title 8, Building and Site Ordinance. Vaun Waddell asked for and received permission to make a closing comment. His major issue is how the City does business and how it treats the voters and the property owners.

The Mayor asked if there were any corrections to the minutes of the regular meeting held May 11, 2006. Each Councilmember had a copy of said minutes prior to the meeting. It was moved by Councilmember Harris and seconded by Councilmember King to accept the minutes of May 11, 2006, with one correction on Page 1 under Sweet Haven Apartments to read, "A discussion was had on reducing the base fee citywide on applicable lots or properties." Motion carried.

CITIZEN INPUT: Jan Gallup spoke on behalf of her husband, Tom Gallup. Back in November he approached Councilman Kershaw and the Mayor concerning revising an economic development committee. He was on that committee when it was first established with Councilman Kershaw and he would like to know if anything has been done towards that. He was told that when the new councilmembers came on that there would be some discussion and hopefully there would be a new committee formed. He is more than willing to serve on that committee again and would like to see something happen.

SWEET HAVEN APARTMENTS GARBAGE CHARGES: Councilmember King reported Adam Johnson of PSI Waste Systems says the company has just one front-load truck in the area per week to pick up our large dumpsters. His driver hasn't complained about excessive garbage buildup at Sweet Haven Apartments, so he suggests we consider replacing our six-yard dumpster with an eight-yard one. He did say if eight yards was not enough, then we could get a second dumpster of whatever capacity we wanted. PSI charges \$60.43 per month for an eight-yard

container compared with \$45.20 for a six-yard one. The City adds its cost for dumping it in the landfill to that, so actually the City charges \$99.51 for a six-yard garbage dumpster. The Mayor reported PSI contacted him and they want to meet with the Council next month about a raise because of the cost of fuel, etc. There was no action taken at this time.

SUGAR CITY PARADE: Councilmember King is supportive of having an annual Sugar City Parade. He feels it should start in 2007 or 2008.

MOTION: It was moved by Councilmember Orme and seconded by Councilmember Harris that we begin an annual tradition of a Sugar City Parade beginning in the summer of 2007, date and other particulars to be discussed and determined at a later date when we have more time to do so; he would be in charge of the parade as the parks and recreation director of the City; motion carried.

JEPPESENS' ACCESS OVER BIKE PATH: The Mayor reported he had a meeting with Garry Jeppesen, Dick Dyer, and Depatco's representative, Greg Stoddard, to decide what to do about the problem regarding the mislocation of the sewer line that Sun River put in; and the bike path not being arranged for properly as it went over Jeppesens' property; and the fact that Jeppesens did not have even a right-of-way to get into their property without coming over the bike path, if it were put in. He presented a handout of his summary of what he thought took place in the meeting. His proposal was discussed line by line and a few changes made.

MOTION: It was moved by Councilmember Deitz and seconded by Councilmember Harris that we accept this agreement as written for Garry Jeppesen, Depatco and Dick Dyer, the City Engineer, with changes as stated; motion carried. A copy of said proposal is attached hereto marked "Attachment 1."

PLANNING & ZONING REPORT: Sharee Palmer addressed the Council.

Public Hearings: P&Z had a public hearing on the subdivision ordinance, and they failed to make a motion or recommendation in their meeting. They will do it at their next meeting.

Design Review Board: P&Z had some discussion on the design review board that will need to be put into place if the Council chooses to approve the design review. She presented several names. The board consists of five – two from the impact area and three from the City. We only need to contact the people when, and if, the Council approved design review as part of our ordinance.

Joint Planning & Zoning Commission: Our P&Z Commission has scheduled a joint meeting with the County P&Z to discuss the impact area on June 8th. They won't discuss areas that are in question between the two cities. The Mayor indicated he would like to talk to Sharee about some of the discussions that were had with Mayor Larsen and let her know where they officially stand.

Lois Webb Sign and Home Occupation/Home Business: Sharee reported P&Z had a discussion on Lois Webb's swimming lessons business. She has taken her sign down. Sharee suggested Sharon talk with Attorney Lee about the problem, and they have come up with a letter to send to Mrs. Webb. The Council was presented with copies of said letter. Sharon explained that on May 19 a complaint was filed by a citizen against Lois Webb's home business for teaching swimming lessons because the business was out of compliance with our ordinances. She investigated in the Code book and minutes and talked to Attorney Lee about it. In 2002 P&Z made an error in granting that business license. Sharee reported when you don't comply with everything in a home occupation, it turns into a home business; or if you build another building on

your property, it automatically is a home business. In a home occupation, the use is conducted entirely within a dwelling and is carried on by the inhabitants thereof. Sharon reported Attorney Lee recommended that we allow Mrs. Webb to continue her business through this current year, but then not to allow a business license again until she comes in compliance. Attorney Scott Lee said the restriction would be 30 hours a week and not more than one part-time employee.

Mrs. Webb asked permission to address the Council. She reported she could move the pool inside her garage, and that she is going to apply for a special use permit to allow her to teach in July. She was unaware of the restrictions in the ordinance. She has swimming lessons scheduled Monday through Friday for June and two weeks in July. Councilmember King feels since it was the City's mistake we should give her plenty of leeway this year. The following year we can talk more closely about our ordinances. It was a consensus of the Council that she be given the opportunity to conduct her business as she has done in the past for this year, and then after the season is over we can make decisions.

Sharee reported in the beginning P&Z may have approved it, but what they approved was a home occupation. It has developed into a home business. Attorney Lee said parking is a problem in that Mrs. Webb has attracted a large clientele. Because it is a dramatic increase over what was actually approved in the first place, he is recommending as a workable compromise rather than shutting her down, which the City could do, it would be good for the City to allow her to operate to some extent and decide how broad that operation should be.

Councilmember King feels since it was the City's error and since Lois and her family have provided a meaningful service in the community, he feels we ought to let her proceed pretty much unrestricted this summer; then Lois knows what needs to be done to come into compliance in the following years. He feels the letter ought to be amended to reflect that.

MOTION: It was moved by Councilmember Deitz and seconded by Councilmember Harris that we accept Councilmember King's condition to amend the letter to allow Lois Webb to continue with her swimming lessons as planned for this summer (45 hours Monday through Friday) and she will be required to come into compliance next year; motion carried.

BALL, BROWN, HARRIS, JEPPESEN ANNEXATION: The Mayor reported Jan Gallup and Garry Jeppesen had requested a discussion of the Ball, Brown, Harris, Jeppesen Annexation. Introductions were made for Todd Harris, Sandra Ball, Garry Jeppesen and their attorney, Kent Higgins.

TODD HARRIS addressed the Council. He felt it would be a great time in open meeting to clear the air a little bit and then he reserved a few items for an executive session. He lives 225 miles away, and there's a gossip trail that comes down to him. He hears things, and feels it is more important to look at each other face-to-face to make sure that things that are being told to him are factual and not rumors. He feels it is common knowledge that there is an issue with Ken Brown and that he is negotiating with Rexburg now. There evidently is a misunderstanding that the Harris family has been working behind the scenes with Rexburg to cut a deal. He came to tell the Council face-to-face that they have not had any contact with Rexburg whatsoever since the whole issue got started in August of 2005. He wants to continue forward in being annexed into Sugar City. His brother talked with Mayor Larsen and said it was a fact-finding mission to find out what their position was. Mayor Larsen told him it was Rexburg's property, it is in their impact zone, and they were going to annex it in. He said at that time they were in the process of master planning with Jan and P&Z that whole area, and certainly he didn't want someone to reveal that or make it sound as though there was dissension in his family.

Mr. Harris read a letter from Brent McFadden dated August 31, 2005, asking him

which impact area he wanted to be in. Since the matter hasn't been decided, it is in no impact area at this time. He said since that time it has been his position, as it has always been his position, to be annexed into Sugar City, and he is not waffling on his decision. He was given the impression that the City Councils felt they were trying to play the two cities against each other for the best deal. As far as the Harris 78 acres goes, they have made virtually no contact or attempted to make any contact to work any deal whatsoever with Rexburg.

Mr. Harris said there are some things he doesn't want to be made public and he wants to go into executive session to discuss it. They are working to de-annex their property from Rexburg at this time. They have a trial set for June 12th.

EXECUTIVE SESSION:

8:10 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.

10:45 p.m. The executive session ended and the regular Council meeting reconvened.

MOTION REGARDING THE PROPOSED ANNEXATION COMPROMISE: In view of the fact that the position of the 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 moved by Councilmember King and seconded by Councilmember Harris that we authorize our attorney, Scott Lee, to visit with mediator Richard Smith about these concerns; seconded by Councilmember Harris; motion carried.

EXECUTIVE SESSION:

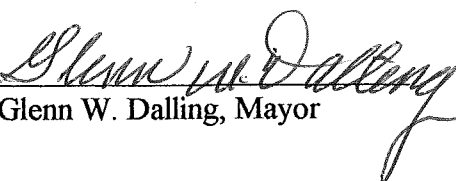
11:00 p.m. It was moved by Councilmember King and seconded by Councilmember Deitz, pursuant to Title 67-2345(b), that we move into executive session to discuss personnel matters. The Mayor called for a roll call vote:

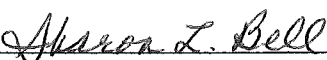
Those voting aye: Councilmembers Harris, Deitz, King and Orme

Those voting nay: None

Thereupon, the Mayor declared the motion passed.

11:50 p.m. The executive session ended and the regular Council meeting adjourned.

Signed: 
Glenn W. Dalling, Mayor

Attested: 
Sharon L. Bell, Clerk

Meeting Thursday, May 18, 2006, at 3 p.m.

Present: Dick Dyer, Walter Deitz, Garry Jeppesen, Harold Harris, Greg Stoddard and Glenn Dalling

Proposal regarding the sewer line for SunRiver Lake Estates being located outside of the City's easement. The bike path right-of-way was not approved through the Jeppesen property. Also, Jeppesens do not have a right-of-way through the City property south of Jeppesens to 1st South.

1. The SunRiver sewer line will not be moved.
2. Jeppesens will purchase the City property south of their property to 1st South @ \$.50 a square foot.
3. Jeppesens will grant a 20-foot permanent easement to the City for the sewer line and the bike path along Railroad Avenue.
4. Jeppesens will grant a permanent 25' easement along Railroad Avenue on the property they purchase from Sugar City.
5. Jeppesens agree not to use the south side of 1st South for access to their property.
6. Not agreed to, but the City would request that Jeppesens keep their property clean and control the weeds.
7. Depatco will provide a 30 X 4' asphalt access for Jeppesens to the north side of 1st South.
8. Also Depatco will build a gravel bed from the asphalt access to the south of Jeppesens granaries.
9. Depatco will provide Sugar City with 24 yards of good topsoil located at the South entrance.
10. Depatco will provide the City with useable topsoil whenever possible and check with the Mayor on the location of this topsoil.
11. Sugar City will grant Jeppesens a temporary access on the north of their property for unloading trucks until the City wants to change the use of their property.
12. Dick Dyer will pay for a survey on the City property to be sold to Jeppesens.