

MINUTES OF REGULAR MEETING  
SUGAR CITY COUNCIL  
THURSDAY, AUGUST 28, 2008

Presiding: Mayor Glenn W. Dalling  
Meeting Convened at 6:30 p.m.  
Prayer: Harold Harris  
Pledge of Allegiance

Present: Mayor Dalling; Sharon L. Bell, Clerk; Marcie A. Smith, Treasurer; Councilmembers Harold Harris, Bruce King, Brad Orme and Lamont Merrill; Josh Garner, City Attorney; Attorney Aaron Davis; Brian Hawkes, Planning & Zoning; Attorney Adam Dunn; Terry Mortensen; and Thomas Garlock.

Mayor Dalling asked to be excused in order to meet privately with Attorneys Josh Garner, Aaron Davis and Adam Dunn and turned the meeting over to Council President Harold Harris to conduct.

**PUBLIC HEARING (Proposed Budget 2008-2009):** Council President Harris welcomed everyone and brought the public hearing to order. He presented a brief review of the procedure for the public hearing and asked Treasurer Marcie Smith to introduce the subject of tonight's hearing. Marcie reviewed the general fund and the utility fund budget items. City Clerk Sharon Bell reported there was no prior written testimony submitted. With the sign-up sheet of the public hearing in hand, Council President Harris called first for those in favor of approving the proposed budget. No one testified in favor.

He then called for those neutral to the proposal to testify. No one testified.

He called for those against the proposal to testify. No one testified.

6:45 p.m. The public hearing ended, and the council convened its regular meeting.

Present: Mayor Dalling; Sharon L. Bell, Clerk; Marcie A. Smith, Treasurer; Councilmembers Harold Harris, Bruce King, Brad Orme and Lamont Merrill; Josh Garner, City Attorney; Attorney Aaron Davis; Brian Hawkes, Planning & Zoning; Attorney Adam Dunn; Terry Mortensen; Thomas Garlock; Paul Lusk; Eddie Pincock; Stephanie Blackham; Shane Worrell; Darin Larson; and Vaun Waddell.

**ADOPT 2008-2009 BUDGET:** It was moved by Councilmember King and seconded by Councilmember Orme to adopt the 2008-2009 budget for the city as published in the newspaper. Council President Harris called for a roll call vote:

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

Those voting nay: None

Thereupon, Council President Harris declared the motion passed.

The mayor returned to conduct the remainder of the meeting.

The mayor asked if there were any corrections to the minutes of the regular meeting held on August 14, 2008. Each councilmember had a copy of said minutes prior to the meeting. A couple of minor corrections were requested. It was moved by Councilmember King and seconded by Councilmember Harris to accept said minutes, as amended; motion carried.

**PLANNING & ZONING REPORT:** Brian Hawkes addressed the council.

**Recommendation of Calaway Annexation and R1 Zoning:** Brian reported there was nothing the commission deemed substantive in testimony during the public hearing. He presented P&Z's written recommendation: "We would like to recommend to you the annexation of the Calaway Ranch property and its zoning designation of R1. This letter will require your action on the matter within 15 days if you do not hold another public hearing." Brian stated that with the preliminary plat they have to apply for a zone change. The area is not in the flood plain, but there are issues with water. There will be high ground water. Those issues will be covered in the CCRs.

**Gutenberger – Second Residence on Property:** Brian reported Bill Gutenberger made a request for a second residence on his property, which is zoned R2. The definition of R2 zone does not allow multiple residences on a lot. His lot could not be subdivided since it would not allow the minimum 80 feet of frontage for each lot. P&Z will write Gutenbergers a letter to explain their decision not to grant the request.

**Old Farm Estates Development Agreement:** Brian said P&Z did not get a copy of the proposed Old Farm Estates development agreement until the meeting on August 21, and they have not had a chance to read it and discuss it as a commission. Their general opinion is that the development agreement is unacceptable in its current form. They also have not approved a master plat for this subdivision. This development agreement should only apply to phase 1. The developer came in under the old title 10. For subsequent phases, they will use new title 10. Application to subsequent phases is irrelevant. Old Farm Estates stated that they would begin the process all over for subsequent phases; therefore, this development agreement should only apply to phase 1.

**Toscano Development Agreement:** The opinion of P&Z is that the development agreement is adequate as presented with the following changes: drop SC-27 and add a specific date to SC-11 (June 1, 2009). The mayor reported the date is just a guideline for when the well needs to be added.

**DiFresco Zone Change:** P&Z voted not to grant the zone change since it did not fit their many planned uses. This will need to be acted upon tonight. Vaun Waddell said the DiFresco owners could do everything they said they wish to do under the present zoning. That parcel is no place for C3 zoning. Under our zoning classification, the uses they have described will require special use permits.

**DiFRESKO ZONE CHANGE:** Shane Worrell addressed the council. He presented a handout showing current uses in the M2 zone and proposed uses in M1, C2 and C3. He said under the uses they want, five of them are not permitted, two require special use permits and only one is

approved. They will make their business plan available in the near future. Discussion was had. The mayor wants the weeds taken care of and the cement trap in the back concrete pit fenced or filled in. He said DiFresco would be totally liable if someone falls in the trap. Mr. Worrell reported they would start doing something in the next few days.

**DECISION ON DiFRESKO ZONE CHANGE:** The definition of C3 zoning was read.

**MOTION:** It was moved by Councilmember Orme and seconded by Councilmember Merrill to approve the zone change for DiFresco from the current zone (M1) to C3; Councilmembers King and Harris voted nay; Councilmember King opposed because he supports the recommendation of P&Z regarding this application. After further clarification, Councilmember Harris withdrew his nay vote and voted aye; motion carried.

**CLIFF MORRIS & VAL CHRISTENSEN – INSPECTOR REVIEW:** The city's building inspector, Cliff Morris, reported to the council that we have been using state inspectors for electrical and plumbing inspections. He recommended that we begin using the City of Rexburg's inspectors for said inspections. There would be no contract, and either party can get out of an agreement at any time. Val Christensen from the City of Rexburg said they would handle the inspections first in/first out.

**MOTION ON INSPECTOR REVIEW:** It was moved by Councilmember Harris and seconded by Councilmember Merrill to participate in this joint venture using Rexburg electrical and plumbing inspectors instead of state inspectors; motion carried.

**CALAWAY ANNEXATION:** A discussion was had on P&Z's recommendation to annex the Calaway property.

**MOTION TO ANNEX CALAWAY PROPERTY:** It was moved by Councilmember Merrill and seconded by Councilmember Orme to accept the recommendation of Planning and Zoning for the annexation of the Calaway subdivision into the city with the zoning designation of R1; Councilmember King voted nay; motion carried. Councilmember King said he respects the decision of the council but he opposed the annexation tonight for two reasons: (1) this is a major step for the city and, since we just received the recommendation from the Planning and Zoning Commission tonight, we haven't had a chance to review opposition materials submitted; and (2) an annexation of this size deserves a second public hearing.

**OLD FARM ESTATES DEVELOPMENT AGREEMENT:** Adam Dunn, attorney for Old Farm Estates, addressed the council. He expressed concern that some of the problems we face today have been ongoing and have dragged on. He was congenial in accepting the council's proposal to sign the final plat agreement for phase 1 and to send back the development agreement for review by P&Z. The council discussed with him the city's concerns about water, sewer and other challenges related to a large development and informed him that the city was conducting an overall water analysis, including a study on the sewer trunk line to Rexburg. Both of these studies will give the city valuable information on Sugar City water and sewer needs.

**MOTION:** It was moved by Councilmember King and seconded by Councilmember Harris to authorize Mayor Dalling to seek the necessary signatures on the final plat of phase 1 of the Old Farm Estates development and to send the proposed Old Farm Estates development agreement to the Planning and Zoning Commission for their review, with the development agreement issue to be placed on the agenda for council meeting on September 11. The mayor called for a roll call vote:

Those voting aye: Councilmembers Harris, King, Orme and Merrill  
Those voting nay: None  
Thereupon, the mayor declared the motion passed.

**DEPARTMENT REPORTS:**

**COUNCILMEMBER HARRIS:** No report.

**COUNCILMEMBER ORME:** No report.

**COUNCILMEMBER KING:**

**Comprehensive Plan:** Bruce recommended three changes to the comprehensive plan be sent to P&Z for their consideration prior to the next iteration of the plan, whenever that may be.

**COUNCILMEMBER MERRILL:**

**Update on painting of water tower:** Lamont reported that the contractor said because of the long weekend he will start painting the water tower on September 2<sup>nd</sup>.

**MAYOR'S BUSINESS:**

**Syringa Wireless:** The mayor reported that Rexburg's top lease on their water tower is \$371 per month and that we are going ahead with Syringa Wireless at \$500 per month.

**Water System Analysis:** It was moved by Councilmember Harris and seconded by Councilmember King to authorize Forsgren Associates to conduct an estimated \$2,000+ water analysis at the city's expense, although the city expects developers to share in the cost because the analysis is an advantage to them; motion carried.

The mayor entertained a motion to go into executive session.

**EXECUTIVE SESSION:**

10:20 p.m. It was moved by Councilmember King and seconded by Councilmember Harris pursuant to Idaho Code 67-2345(1)(b) and (f), that we move into executive session to discuss personnel and possible litigation matters. The mayor called for a roll call vote:

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

Those voting nay: None

Thereupon the mayor declared the motion passed.

Discussions during executive session were on hiring personnel.

10:55 p.m. The executive session ended and the regular council meeting reconvened.

**MOTION:** It was moved by Councilmember King and seconded by Councilmember Orme to authorize Mayor Dalling to negotiate a contract with Aaron Davis to assume the responsibility of city attorney; motion carried.

Meeting adjourned at 10:56 p.m.

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

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