

**City of Rigby  
City Council Meeting  
November 17, 2009  
7:00 p.m.**

Mayor Smith welcomed everyone to the meeting and turned the time over to Dave Swager who invited everyone to join him in the pledge of allegiance. Mayor Smith then turned the time over to Councilman Maloney who gave the prayer.

Dave Swager, City Clerk/Treasurer, performed roll call. Those present were: Mayor Smith, Councilman Marriott, Councilman Simonson, Councilwoman Poole, Councilman Day and Councilman Maloney. Those absent: Councilman Blackburn.

**Public Hearing-Boundary Annexation-**

Mayor Smith stated the next item on the agenda was a public hearing for annexation and turned the time over to Paula Sessions, Planning and Zoning Administrator, for her presentation.

Paula Sessions, Planning and Zoning Administrator, displayed a map for the council and referred to that as she spoke. Mrs. Sessions stated that approximately a year ago the city council had directed her to initiate a perimeter annexation in an attempt to clean up pockets of county property within city limits. Mrs. Sessions explained that as the city has grown outward there have been more of these county pockets. Mrs. Sessions explained that she has been in contact with the Census Bureau and Jefferson County Tax Assessor and stated they are happy this is being completed as it makes their jobs easier. Mrs. Sessions stated this also made it easier for the city crews when they were checking water and sewer lines or doing general work within the city. Mrs. Sessions referred to the colored parcels on the map and explained they indicated whether a parcel was completely surrounded by city or adjacent to city. Mrs. Sessions explained some of this property was forgotten property when previous annexations were done and wasn't included with that. Mrs. Sessions stated there was also City of Rigby property that is not currently within city limits and so this was doing clean-up with that as well. Mrs. Sessions stated questions had come up as to why the city was doing this annexation and Mrs. Sessions explained this was honestly to clean-up and straighten the city boundaries. Mrs. Sessions explained there had been the concern of how this would affect the properties and Mrs. Sessions stated it would cause the property taxes to increase approximately \$70 per acre, per year and this is an approximation based on the fact that all the property would come in as the default R-1 zoning. Mrs. Sessions stated she had been asked what would happen if the use on the property was not conducive to the R-1 zoning and Mrs. Sessions explained that would be grandfathered and gave a brief explanation of what this term meant. Mrs. Sessions explained some of the restrictions to the grandfathering and how that right can be removed. Councilman Marriott asked if a person had one horse and that horse was to die could the property owner obtain a new horse and Mrs. Sessions explained that they could as long as it was done under 90 days from the demise of the current horse. Mrs. Sessions stated that she had met with some people listed on the annexation and had received permission to annex the property once the grandfathering was explained. Mrs. Sessions stated she had also talked to other people and they had not formed an opinion one way or the other and explained they had merely asked questions. Councilman Marriott referred to the Walchli property and asked if there was some

property in the city and some in the county and Mrs. Sessions explained along the South side of Highway 48 was the property in question and stated there were parcels on which the homes were located and these were in the city but the backyards were still in the county.

(There were issues with the recording and the tapes were changed)

Robin Dunn, City Attorney, stated there was a concern over whether the first portion of this meeting had been recorded or not and so he wanted to go over some of the items from his notes and make sure they were on record. Mr. Dunn stated the first thoughts brought up was this annexation benefited the County Tax Assessor, the Census Bureau, cleaned up defined work areas for city staff and cleaned up forgotten properties completely surrounded by city property. Mrs. Sessions stated that was correct. Mr. Dunn stated there had been indication this annexation would raise property taxes approximately \$70 per acre, per year and Mrs. Sessions stated that was correct. Mr. Dunn stated there had also been reference to grandfathering uses on the properties currently up to 90 days unless the owner sold the property. Mr. Dunn asked if there were any other plus or minuses like infrastructure or policing that needed to be addressed. Mrs. Sessions explained that most of the properties were already policed by city police because the houses were already considered to be part of the city. Mrs. Sessions explained this annexation would add to the policing by the city officers due to the fact that these backyards would now be under city jurisdiction. Mrs. Sessions explained that as far as the infrastructure was concerned annexation did not guarantee the right to city water and sewer services. Mrs. Sessions explained that once the services were in the area the property owner could connect if they chose to at that time.

Mayor Smith opened the public hearing and asked for any testimony in favor. There was no testimony given.

Mayor Smith asked for any testimony neutral.

Paul Hepworth, 571 Aspen Drive, stated he was speaking neutral on two items and explained the first was because he had recently annexed a large portion of property into the city. Mr. Hepworth stated there were several benefits to this and explained the first was code compliance, weed control and animal control and people move into the city for these reasons. Mr. Hepworth stated these properties that were surrounded by city property needed to have the code enforcement because it allows the neighbors some form of protection over their property rights and piece of mind. Mr. Hepworth stated the second item stated the budget for the city, county and other municipalities were tight and asking for tax increase is a difficult thing to do but felt it was important that people pay taxes to enjoy the benefits of living in the city.

Mayor Smith asked for any other testimony neutral. No further testimony was given.

Mayor Smith asked for any testimony against.

Kenny Smith, 480 N. 3<sup>rd</sup> West, stated he owned two pieces of property that were being considered for annexation. Mr. Smith stated the first one was located on South 3<sup>rd</sup> West and stated there is no public access to that property. Mr. Smith stated his primary use for this property is the storage of construction material and currently has old farm equipment stored on it. Mr. Smith stated his current use on the property is to maintain the current pigeon population and explained that he does

so with a 20 gauge shotgun loaded with 8-shot about 2 or 3 times a year. Mr. Smith stated he didn't feel that Police Chief Anderson would appreciate him doing this within city limits. Mr. Smith explained pellet guns didn't work and poisoning wasn't good because it affects the neighbor's dogs and cats. Mr. Smith stated this property has been used as an orchard, horse pasture and has housed a variety of livestock. Mr. Smith stated he has also used the property to rehabilitate several hundred mallard ducks over the winter within a fenced enclosure. Mr. Smith stated there were two storage buildings and no public access and felt there was no redeeming reason to bring it into the city. Mr. Smith stated the other piece of property, located by 2<sup>nd</sup> North, is surrounded by the city and has a house, a detached garage, a barn with two milking stalls, a chicken coop and a pig-pen. Mr. Smith stated this property has been utilized for cattle, sheep, ranch horses, a goat and sometimes some chickens but no pigs since he has owned it. Mr. Smith stated that currently the property has none of the above on it and explained this was because his daughter was looking to purchase the property. Mr. Smith explained it was his daughter's dream to come back to Rigby and raise animals on this property that are prohibited by the city. Mr. Smith explained that his daughter has already visited with a contractor who has looked at how to remodel or add to the house. Mr. Smith stated that he has already received earnest money on the purchase of this property. Mr. Smith stated that he has not maintained the lawn out there for the past two years because her remodel will eventually require re-landscaping. Mr. Smith explained that his daughter has worked hard, is a teacher with 3 degrees and feels she would be an asset to the city. Mr. Smith stated that to the best of his knowledge Rigby has never forced an annexation and asked the council to think about that. Mr. Smith stated there had been discussion regarding how this annexation would be beneficial and agreed the city would benefit from additional tax money but didn't agree with the census because no one lives on this property and stated it helping the county was not true. Mr. Smith stated that annexations are handled by the city, sent to the state and then referred to the county. Mr. Smith stated there is no confusion on whether a piece of property is in the city or the county. Mr. Smith stated the city has had too much internal dissention and feels this forced annexation would cause an adversary situation. Mr. Smith stated he felt this annexation would provide little benefit except to satisfy some government or elected employee, will create problems for years and destroy the dreams of one young woman.

Tony Smith, 480 N. 3<sup>rd</sup> West, stated that annexing the property at the end of 2<sup>nd</sup> North will cause problems for her family. Mrs. Smith stated the property was purchased so they could have a small farm and raise chickens for eggs or whatever else they needed. Mrs. Smith stated her daughter has planned to purchase the property with the understanding that she could raise these animals and if the property is annexed then it ruins the whole thing. Mrs. Smith stated that by accepting the housing in the back of the property it would kill the value of the property because you can no longer put a road through there.

John Epperson, 435 N. 3<sup>rd</sup> West, stated he understands the rationale behind the plan for this annexation but wanted to submit the idea that this plan is flawed in the fact that it's a blanket convenience. Mr. Epperson stated this was to make city and county jobs easier but didn't take into consideration each individual situation. Mr. Epperson stated it was his understanding the city did not have an R-1A-1 zoning and felt this alone would solve his problem. Mr. Epperson stated they had horses on their back property and explained that at one time it was all county and because of the loss of an easement there is no access to this property and once annexed will be devalued. Mr. Epperson stated their intent was to sell the property within the next year but if they could not sell a horse set up if the next person couldn't have one. Mr. Epperson suggested going back and looking

at the plan and perhaps look at case by case rather than the shotgun effect. Mr. Epperson stated he could understand the need for clean-up and stated that some properties did need to be annexed but again asked for a reevaluation. Mr. Epperson asked for consideration on his property because it put him, his wife and family in a difficult situation.

Darla Epperson, 435 N. 3<sup>rd</sup> West, stated the front part of their property is in the city but the back part is in the county. Mrs. Epperson stated that in the county they have horses and even had cows at one time until people started cutting their fence and chasing the cows out and they even have geese. Mrs. Epperson stated the problem they have is that people who own livestock and they get brought into the city they are now subjected to city law. Mrs. Epperson stated there would now be a problem if their cows started making noise and people complained and police would be called out. Mrs. Epperson stated she was concerned over the impact it would have on the people who had agricultural land and farming that property.

LaVerl Noreen, 500 W. 1<sup>st</sup> South, stated he owns approximately 5 ½ acres and operates a junking business with heavy equipment. Mr. Noreen stated he built a shop in 1964 when there was still a potato field across from him and as that property has been developed there have been petitions against him for his noise and junking. Mr. Noreen stated if this annexation was approved there is property to the north of him that would probably be developed and he would start all over with the petitions against him for everything he does. Mr. Noreen stated he had talked to a woman that told him about the grandfathered right that would allow him to continue the construction and scrap metal work. Mr. Noreen stated he would like to know what someone like him would benefit from this annexation other than more taxes.

Mayor Smith asked if there was any other testimony against.

Paula Sessions, Planning and Zoning Administrator, stated that she had received a letter from Jack Christensen and explained that he was unable to attend this evening. Mrs. Sessions read the letter into record as follows:

*To Whom It May Concern:*

*We do not want to be annexed into the City of Rigby, for several reasons. It would increase our property taxes yearly by \$386 or more. We are on a fixed income and it would be extremely difficult to deal with more expenses. It is no advantage for us to be in the city, since we do not want to be on city sewer or water. We would appreciate your consideration of our reasons.*

*Sincerely,  
Jack and Shirley Christensen*

Mayor Smith asked if there was any other testimony against.

Rachel Anderson, 359 N. 3<sup>rd</sup> West, stated she was here on behalf of her father Kee Crank. Mrs. Anderson stated her family has a plot of land behind her father's house that is being considered for annexation. Mrs. Anderson stated they raise cattle in the summer and kill them in the fall and have the meat all winter and would like to continue this but the animals would be off the property for

more than 90 days. Mrs. Anderson stated that if her father was required to keep cattle on year round it would cause a financial burden because he would have to purchase hay and other feed plus the additional tax rate. Mrs. Anderson stated that her father also farms that land and there have been people complaining over the water but they have watched it really close this year. Mrs. Anderson explained that she grew up raising chickens and pigs like everyone else. Mrs. Anderson stated the family is against this annexation.

Paula Sessions, Planning and Zoning Administrator, asked to address some of the questions that have been brought up this evening. Mrs. Sessions stated she had heard mention of various uses for a parcel and explained the grandfathered right only applied to the use current and in effect at the time of annexation. Mrs. Sessions stated there had been mention of looking at this annexation on a case by case scenario and stated that was the exact reason this problem existed today. Mrs. Sessions explained that people didn't want the property annexed for whatever reason and so the city allowed that and grew around them and stated the purpose of this annexation was to clean-up the boundaries and remove county pockets within city limits.

Mayor Smith asked if there was any other testimony against. No further testimony was given. Mayor Smith closed the public hearing at 7:48 p.m. and turned the time over to the council for deliberation.

Councilman Day stated that he had a few questions he would like to address with the first being regarding the noise with the farm animals and asked if that would be a problem. Mr. Dunn stated that was correct and explained there was a nuisance ordinance and disturbing the piece in the code that would now govern these properties. Councilman Day stated his next question was in regards to the 90 days having an animal off the property and asked if there were chickens on the farm throughout the year but cows only for a little while did the grandfathering still cover the cows. Mr. Dunn stated it had to be the same animal for the entire time according to city code and ordinance. Councilman Day stated his next question was regarding property values and referred to the horse sheds that would become useless if the right was not transferred and asked if there was any chance of a variance to continue this right. Mr. Dunn stated that was something that would be up to the purchaser of the property. Councilman Day asked if this was guaranteed and Mr. Dunn stated it was not guaranteed and that it was not transferable. Councilman Day stated his next question was in regards to Jack Christensen's property and asked Mrs. Sessions how big of a parcel that was and Mrs. Sessions stated she believed it to be approximately 4 acres. Councilman Marriott asked who borders Mr. Christensen's property on the West and Paul Hepworth indicated that H&S Development has purchased that property. Mr. Dunn explained the different types of annexations and gave reference to category A, B and C. Mr. Dunn stated that under Idaho Code 50-222 there was an extensive procedure annexations had to follow and gave a brief explanation how this affects the different categories. Mr. Dunn then explained to the council that the proposed annexation this evening would be under the category A and stated this was the easiest one to accomplish under Idaho Code.

Kenny Smith, 480 N 3<sup>rd</sup> West, interjected stating that his property was not a category A because it was not completely surrounded by city. Mr. Dunn explained that being surrounded was one factor but was not the only factor cross the board. Mr. Dunn stated he had been writing briefs for another city and stated that was why he was more aware. Mr. Smith asked Mr. Dunn if what was being

proposed was appropriate and Mr. Dunn stated that statutorily they have presented the appropriate category A criteria and whether the council votes to approve it or not is up to them.

Tony Smith, 480 N. 3<sup>rd</sup> West, asked if these properties were annexed would they have to bring city water and sewer to them. Mayor Smith stated that was mentioned earlier but the answer is no. Mr. Dunn stated that if it's available then they have the option to connect.

Councilman Marriott asked Mrs. Sessions what percentage of the parcels on this map have indicated willingness to be annexed and Mrs. Sessions stated her guess would be approximately 75%. Mr. Epperson asked where this information came from and Mrs. Sessions stated that was her opinion. Councilman Simonson stated that based on the number of parcels indicated on the map and the 4 or 5 being questioned this evening he would agree that is pretty close number. Councilman Simonson stated that when this project was begun the idea was to bring in all these little pockets of county land. Councilman Simonson stated at some time the city needs to become the city and the county the county. Councilman Simonson stated they weren't trying to cause dissention in the city but rather to unite the city as a whole and sometimes in doing what is right you end up stepping on some toes. Mr. Epperson stated the city needed to consider implementing the R-1A-1 zone and that would eliminate the problem. Mrs. Sessions stated that by doing this the city would be spot zoning and explained this was not allowed per statute. There was a brief discussion regarding spot zoning. Mr. Smith stated the solution could be for the city to go ahead and annex those people who didn't object and not to annex the ones that did object. Mayor Smith thanked everyone for their comments and once again turned the time over to the council for deliberation. Mayor Smith explained that a lot of time, work and money had gone into the presentation this evening, testimony had been heard from the community and stated he would like to have a motion from the council. Councilwoman Poole asked if there could be a stipulation made for the 20-25% of people who have vested interests and don't want to be annexed. Councilwoman Poole asked if the city could annex the 75% that it didn't seem to matter to them and then put a stipulation like change of ownership on the other properties. Mayor Smith stated they probably could but felt it was his opinion they would be complicating the issue. Mayor Smith asked Mrs. Sessions if she had a comment on that and Mrs. Sessions stated the problem with adding a stipulation is that this administration may not be around to enforce that stipulation or it may be forgotten completely in a few years and then future city staff is faced with the same issue as that which is being presented this evening. Councilman Day stated they can exclude those 5 property owners present this evening if they chose. Mrs. Sessions explained the city would have to pay to have the legal description changed because the legal description on the notice was the proposed boundary taking in all of these properties. Mrs. Sessions stated they would need to re-advertise and go through another hearing. Councilman Day asked why they just couldn't exclude them and Mrs. Sessions explained it had been advertised as a legal notice a certain way and if things were changed it would need to be re-done. Mrs. Sessions explained there was a certain procedure that needed to be followed. Mr. Dunn gave a brief explanation of the procedure that annexations would have to go through. Councilman Simonson stated the city has gone through the process and now we have these 5 people that don't want their property annexed and so the city leaves them out and starts over and then there are another 5 people that want excluded and this keeps happening. Councilman Day referred to the 90 days and asked if this was state statute and Mr. Dunn stated that was city ordinance and this could be changed either by ordinance or each person could apply for a variance. Mrs. Anderson asked if this would be a yearly renewal and Mr. Dunn explained that generally its an automatic yearly renewal after a review by the city and this was assuming the

property owner kept with the same use. Mrs. Anderson asked if this was guaranteed and Mr. Dunn stated that it was not. Councilman Day referred to changing the ordinance and asked if this would make a guarantee unless future administration changed it and Mr. Dunn stated that was correct. Councilman Marriott stated that by the questions being asked tonight it should be obvious to the people present this evening that they have not predetermined their vote. Councilman Marriott asked Mrs. Sessions to explain the five acre rule and Mrs. Sessions stated this rule was changed when legislature was changed but stated there used to be a rule that if the property was under 5 acres it could be done on forced annexation but if it was over it could not. Mrs. Sessions explained that some of the criteria they were looking at was that the property be contiguous or adjacent to current city limits, and the land did not have to be within the impact area but explained that all property being considered was and that either all property owners do not object to the annexation or the area consists of a residential enclave of less than 100 privately owned parcels. Mrs. Sessions stated that an "enclave" refers to an island of land under county jurisdiction within city limits. Councilman Day referred to if they chose to leave some parcels out and re-advertise and asked if Thompson Engineering would have to go out and re-survey to take all these parcels out and Mrs. Sessions stated that was correct. Councilman Day asked if there would be additional costs for that and Mrs. Sessions stated that would be correct. Councilman Marriott referred to the 5 acre rule and stated there were only a few that were over that and stated they were Kee Crank, Elaine Walchli and LaVerl Noreen. Mrs. Sessions stated that Mr. Noreen's property was recorded in two separate parcels and together may be over 5 acres but they would be viewed as separate pieces and Mrs. Walchli wasn't objecting. Councilman Day stated he felt he would be willing to vote for it if the council was willing to change the ordinance on the 90 day restriction to maybe 180 days. Mayor Smith stated he didn't believe they could do both things this evening and Councilman Day stated he understood that but wanted to make sure this change would happen. Mayor Smith stated they could vote on the annexation and if approved then later they could meet again to address the ordinance. Mr. Dunn stated they couldn't vote on both tonight as they were both not before the council this evening. Councilwoman Poole felt this would alter a lot of people's lives and although she could understand Councilman Simonson's position but still wanted to make stipulations. Mr. Dunn stated the council could postpone the decision making for more time to think about and address this issue which would need to be within 30 days. Mayor Smith stated the grandfathered right allowed the business to continue. Councilwoman Poole asked if they would have issues concerning the noise and Mr. Dunn stated that whenever urbanization comes into contact with industrial or commercial uses there is a level of conflict and eventually something will give over time. Mr. Epperson asked for time and stated a year to either change or sell would be acceptable. Councilman Simonson stated they had the grandfathered right to cover the use and Mr. Epperson stated that grandfathered right did not cover the animals if they became noisy. Mrs. Sessions stated the animals make noise now regardless of not being in the city and felt a degree of common sense that these are animals needed to be taken into consideration. Mrs. Sessions explained that people living in the area right now were aware the animals were there. Mr. Noreen asked if he was to change his use on the property would that remove the grandfathered right and Mr. Dunn stated that it would. Councilman Day referred to the people present and this annexation and asked if the annexation was approved could they turn around and grant variances to cover the issues this evening. Mayor Smith stated that could be addressed. Councilman Simonson moved to approve the annexation as presented this evening and felt the issues could be worked out and feels this is in the best interest in the city. Councilman Maloney seconded. All were in favor.

**Software Equipment Time/Tracking-**

Mayor Smith stated the next item on the agenda was regarding equipment and turned the time over to Dave Swager, City Clerk/Treasurer, for his presentation.

Mr. Swager stated that one of his concerns on the city account is the various pieces of equipment they have. Mr. Swager stated most of the concerns were over the 2 backhoes, the dump trucks and some utility trucks. Mr. Swager explained that sometimes they were charged to roads, sometimes to sewer or parks and sometimes to all 3 accounts. Mr. Swager stated they cannot track the cost of the equipment as it is spread over various accounts over the years. Mr. Swager stated that in talking with Caselle they do have an equipment time and tracking module where each piece of equipment can be put in, track it by each department by hours using it and then accumulate that account to cover ownership, cost of replacement so they can build a historical record and charge the accounts accordingly. Mr. Swager stated the cost of this program is approximately \$2,500 from Caselle and stated he would recommend the council agrees to adopt and purchase this program. Mayor Smith stated that he had talked with Mr. Swager about this and feels that it's a really good move to track the usage of these vehicles and charge the appropriate departments. Councilman Marriott asked if there would be an annual cost or just the one-time purchase price and Mr. Swager stated there would not. Mr. Swager explained the benefits of having this program and explained a worksheet that Rick Lamoreaux, Park/Street/Sanitation Supervisor, had developed for the equipment. Councilman Simonson asked Mr. Swager if he had talked to Mr. Lamoreaux to see if he was willing to do this and explained the program is only as good as the people using it. Mr. Swager explained there were advantages for Mr. Lamoreaux to track this information. Councilman Marriott asked if there was money to make this purchase and Mr. Swager stated there is money in the budget presently. Mayor Smith explained that despite how tight the budget is he felt this purchase would not only be a benefit but could also prove to be a savings in the long run. Mayor Smith reiterated that he understood this was a tight budget year and the city was cutting costs everywhere it could but stated it was his belief that this was a justifiable expense. Councilman Marriott moved to approve the purchase of equipment software for the purpose of being more efficient in the city. Councilman Simonson seconded. All were in favor.

Robin Dunn, City Attorney, suggested changing the agenda just a little so the people in the audience could voice what they needed to and then other council business could be addressed at the end of the meeting.

**Approval of Bills-**

Mayor Smith stated the next item on the agenda was approval of bills and asked if there were any questions or comments.

Councilman Day referred to the \$1,320 spent at Mountain River Vet for boarding dogs and asked if this was a loss for the city. Larry Anderson, Police Chief, stated the only money that was recouped was when someone came in and paid the fine to retrieve their dog. Chief Anderson explained that if the animal wasn't picked up then it was euthanized. Councilman Day asked if it was safe to say the city was going in the hole on this expense and Chief Anderson stated he believed that was correct. Councilman Marriott asked if there was a record of who did come in and pay and Chief Anderson stated the people had to come to city hall to pay so he assumed there would be record with the front office. Councilman Marriott asked what percent paid and Mr. Swager stated the money coming in was a small fraction compared to what the city is paying out. Chief Anderson

explained that no matter what type of animal control the city does it will never make money or even break even. There was a brief discussion regarding how often this amount gets paid, the increasing problem of dogs being turned out and possible boarding solutions. Councilman Marriott referred to the \$27,000 for the treatment plant and asked if that was for Keller Associates. Mr. Swager explained this was for services rendered at the treatment plant as part of their grant proceeds. Councilman Marriott referred to page 6 where he sees engineer consulting fees for 400 North and asked if this was a continuing thing or part of the back that hasn't been paid. Mr. Swager explained this was part of the agreement with HBH Engineers over the Professional Plaza. Councilman Marriott asked what the total paid out on engineering was and Mr. Swager stated the total commitment would be maxed at \$246,000 but was unsure of the exact pay-out at this time. Councilman Day stated that he believed the bid came in way under the \$246,000. There was a brief discussion regarding who gets paid under this commitment and what has been received at this point. Councilman Day moved to approve payment of the bills. Councilman Maloney seconded. All were in favor.

**Approval of Minutes-**

Mayor Smith stated the next item on the agenda was approval of minutes and asked if there were any corrections or comments.

Councilman Marriott referred to page 4 from the last meeting when the Mayor and Councilman Day were going to talk to Mr. Kawamura and asked if that meeting had taken place. Mayor Smith indicated that it had. Councilman Maloney moved to approve the minutes as presented. Councilwoman Poole seconded. All were in favor.

**Other Council Business-**

Mayor Smith stated the next item on the agenda was other council business and turned the time over to the council for anything they needed to discuss or disclose.

Councilman Day stated the city was going to have to replace to commissioners from Planning and Zoning. Councilman Day stated they were already short one and now with Gerd Zimmermann being elected to council they would be short another one. Councilman Day stated this vacancy needed to be made a priority.

Councilman Day referred to Councilman Marriott's earlier comment and stated they had met with Mr. Kawamura. Councilman Day explained that he was going to look over the prices and then talk to other businesses that sell this type equipment and see if these prices are fair or not. Councilman Day stated that he had received a phone call from Superintendent Ron Tolman and explained that he had expressed an interest in the weights for the high school. Councilman Day stated that he would like some time to speak with Mr. Tolman and see what option is available.

Councilman Day stated that on Saturday morning he was driving down 3<sup>rd</sup> West and came across a bunch of sheep. Councilman Day stated these sheep were being herded down the road and there were some going on people's yards. Councilman Day felt this was inappropriate because they were moving them to the West and there was no reason to go through town when they could have taken them down the next road over which is county. Councilman Day stated the people were not even that concerned about the problem they were causing when he spoke with them. Councilman Marriott stated he felt the least they could have done was tell the Chief of Police of their intent to do

the sheep drive in the first place. Councilman Day asked if this was even legal and Mr. Dunn stated there was a statute that stated if the animals destroyed property then the animal owner was responsible for the damages.

Councilman Marriott stated there was a street light out by Leon Guymon's house and didn't know who was in charge of this. Councilman Marriott stated that he knew there were several out around town. Mayor Smith stated he had seen a Rocky Mountain Power truck out on State and 2<sup>nd</sup> North today working on streetlights. Chief Anderson stated the officers do periodic checks and compile a list and turn that in to Paula Sessions, Planning and Zoning Administrator, and she turns them in to Rocky Mountain Power and gets a work order to get them fixed.

Mayor Smith stated that with the budget crisis the city is facing Mr. Swager has come up with a proposal which is just something to look at. Mayor Smith stated this would mean salary cuts from 3, 4 or even 5%. Mayor Smith explained there would be another department head meeting tomorrow to see if there was anywhere else they could cut because he wanted salaries to be the very last resort. Mr. Dunn stated that for the information of the public budgeting has nothing to do with cash flow and explained that anything can be budgeted for any department but without the cash flow there is no way to purchase that item. Mr. Dunn explained the cash flow for the city is lower than expected due to cuts from various sources and so now the budget needs trimmed and that may end up including salaries.

**Public Comment-**

Mayor Smith stated the next item on the agenda was public comment and turned the time over to the audience.

Paul Hepworth, 571 Aspen Drive, stated he wanted to commend the council on their decision this evening. Mr. Hepworth stated that buying property and moving to the city and relying on the council to uphold their ordinances is very difficult because the decision impacts a lot of people's lives. Mr. Hepworth gave a brief explanation on the things he has looked at as a developer in this city.

Robin Dunn stated he had an item that needed to be discussed but explained that it would require the need for executive session per Idaho Code 67-2345 subsection C which is labor negotiation and subsection F regarding litigation. Councilman Day moved to enter into executive session per Idaho Code 67-2345, subsections C and F. Councilman Maloney seconded. All were in favor.

Regular council meeting was adjourned at 8:36 PM and executive session began.

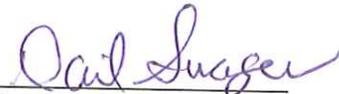
Regular council re-adjourned from executive session at 9:29PM.

Discussion on continuing problems with WWTP. Councilman Simonson moves to contact Parkson with specific problems the filtration system is having and how Parkson intend to correct the deficiencies in the filtration system along with the general contractor – Peck/Omsby. Seconded by Councilman Marriott. All in favor.

Councilman Simonson moves for adjournment at 9:49PM – Councilman Maloney second. All in favor.

City Council Meeting November 17, 2009

  
Keith Smith, Mayor

  
Attest: David Swager, City Clerk