

CITY OF RIGBY
Council Minutes
April 19, 2011

Mayor Smith opened the meeting at 7:00PM. He welcomed those in attendance and acknowledged Scout Troop 64 who was in attendance.

Pledge of Allegiance: Justin Burton, Troop 64

Invocation: Councilman Jerry Simonson

Roll Call:

Present were: Mayor Smith, Councilman Blackburn, Councilman Day, Councilwomen Hinckley, Councilman Simonson, Councilman Zimmermann, also in attendance City Attorney Robin Dunn.

Mayor Smith requested the agenda be changed as follows:

Moving Item number 6 – Moratorium – R-2, Condo and Townhouses follow item number 10 – Building Deficiencies. With no dissension the change was approved.

Justin Steffler –403 Snake River Circle

Steffler introduced himself and his business, Dioptra, to the council. *Dioptra* is the survey instrument used by the ancient Greeks. From this instrument the company took its name. He has opened his business on Main Street in the old Chevrolet building. His business does survey and high density GIS using 360 degree Pamaroma pictures. Dioptra is headquarter in Chubbuck, Idaho. Steffler discussed the advantages of having the infrastructure under the GIS system and using high density pictures. His firm is retained by the City of Chubbuck and has worked with Keller Associates.

Mayor Smith thanked Mr. Steffler for his presentation and welcomed him to the city.

Water Facility Study

City Clerk explained the reason for bringing this item back on the agenda. At a public hearing held on December 21, 2010, Jim Mullen of Keller's Associates presented his firm's recommendations from the "Water Facilities Planning Study". The study listed three specific recommendations listed as priority #1, #2 and #3.

In the January 4, 2011 meeting the water study was again discussed. In a motion the council "approved the study but not the specific priority listing".

DEQ to approve the loan needs the specific listing of priorities 1,2,3. In other words, the council needs to list the three items listed. Appendix D: Cost Data – Water Facilities Planning Study - list the three priorities along with a breakdown of the summary totals (copy attached to the minutes). The Mayor stated the priority of the water study should be to reduce water demand. Meters would reduce demand and the study list meters as priority #3 which should be priority #1. Councilman Day stated the city has existing pumping capacity and adding added pumps will increase costs but not reduce demand. The purchase of water rights which could be converted

to potable water was also listed as a recommendation. Councilman Simonson concurred meters should be listed as priority #1 to reduce demand.

Motion: Councilman Zimmermann made a motion that listed the priorities in the "*Water Facilities Planning Study*" in the following order:

- Priority #1 – Install Meters and correct fire flow deficiencies.
- Priority #2 – Local improvement on Dove Ave. abandon and relocate 4 inch line on West 1st North and alley near Hwy 48, and replace broken and substandard fire hydrants and
- Priority #3- Install booster pump and well and last item construct additional storage.

Second by Councilman Maloney. Voice vote approved.

Hunter Creek II Subdivision

Councilman Day stated due to the conflict between the city and developer, he would like to have Hunter Creek II accepted.

Councilman Day discussed the conflict that has been brought to his attention by developer Paul Hepworth regarding seal coating that has not been completed on Hunter Creek II. Councilman Day acknowledged that he has had contact and communications between himself and developer Paul Hepworth.

Councilman Day brought up the following items outlined in an email Councilman Day had received from Paul Hepworth:

- Item #11 of the development agreement executed between the City and Hunter Creek Subdivision II dated September 12, 2007 states: "Will, immediately upon the completion of such constructed portions, portions, or the entirety of said development, notify the city engineer and request his inspection and written acceptance of such completed utility or street construction work or improvements. If improvements are not completed or built to the standards stated above, a "punch list" of items will be provided to the developer's engineer for completion and re-inspection. City engineer will have seventeen (17) days to provide written acceptance or conditional punch list of items. If the city engineer fails to respond within the 17 day deadline, the improvements will be considered accepted and the dedication to the city will be final."
- In a letter dated August 28, 2008 H&S notified the city that H&S had completed all of the requirements to the city for acceptance of the Hunter Creek Division #2.
- On October 7, 2008 on a letter from Keller Associates and signed by Jeff Freiberg, gave notice to H&S that an inspection was performed on September 17, 2008 with Freiberg, McCowin and J. Anderson. In his letter Freiberg listed ten (10) items that needed to be corrected. None of the 10 items included seal coating.
- In an email to Councilman Day, H&S stated "In spite of the inspection being completed outside the agreed upon time constraints, H&S Development acted in good faith and complied with the requested items anyway".

- H&S went on and stated that paragraph 18 of the development agreement states the "City council will accept the subdivision at the next scheduled council meeting once the 17 days for engineering review has lapsed".

H&S feels 2 ½ years after the last engineering review (October 7, 2008) the subdivision had been accepted when in fact no formal action has been taken by the city council.

For the reason stated in the email from H&S Development, Councilman Day felt the subdivision should be accepted at this time since the city failed to follow the procedure outlined in the development agreement.

Attorney Dunn stated both the city and the developer are at fault. Attorney Dunn hoped a compromise could be arrived at wherein both the city and H&S would bear a portion of the costs. Technically speaking, Hunter Creek is correct on the 17 day response date wherein the city failed to make timely notice of deficiencies and the lack of seal coating was not a listed item on the October 7, 2008 letter.

Discussion followed who in the city is responsible so items such of this do not come up again. Attorney Dunn indicated the planning/zoning department personnel is the responsible personnel. Suggestion made that a punch list be used and followed with future developments.

Motion:

Council Day moves to formally accept Hunter Creek II. Seconded by Councilman Simonson.

Roll Call:

Day	Aye
Hinckley	Aye
Maloney	Aye
Simonson	Aye
Zimmermann	Aye
Blackburn	Aye

INL Bus Parking Lot

City Clerk got back with INL regarding the escape clause that the city wanted to have on the five year lease. INL said they would not allow such a clause without rewriting the entire lease. Attorney Dunn indicated due to the dollar amount he felt the city should have an *opt out* clause.

The lease covers 2 acres and INL feels the added 25-30 car spaces is still within the 2 acre lease agreement. Garbage has not be paid but they will begin paying for sanitation. Clerk directed to have *opt out* clause and continue discussion with INL the monthly rate at \$150 month is ok with council.

Water Tank

Mayor discussed the costs proposals he has received on demolishing the water tank. The one proposal before the council quoted a price to demolish the tank at \$24,000. A second company proposal from Kentucky quoted a lower price but had not been on site to inspect the tank. This item has been on the agenda a number of times. AT&T first brought this up when they indicated the desire to lease the tank to place their antenna on the tower. An alternative site

has been mentioned for AT&T is the museum. The Museum board has indicated their approval of this.

Discussion on the cost of \$24,000 to demolish the tank. Mayor indicated the lead paint is an issue. Structural integrity is not an issue. The tower takes up needed space however, it is not a necessity that it be taken down. Councilwomen Hinckley indicated this should be a 4-5 year plan. Councilman Maloney asked where funds for this would come to pay for the demolition. Clerk indicated the proceeds from the sale of the rec building could be used. Councilman Day commented the antenna on the tower would be removed at an additional cost per the proposal presented.

Discussion on the biggest concern currently is the road fund / seal coating which has a budget of \$50 to \$60,000 excluding Town Square Mall and Hunter Creek II. Adding these two project puts the budget over by \$24,000 on the existing budget. Councilman Day questioned if the cost could come from the water fund. Clerk commented the Burgess Canal project took a large portion of the water fund capital outlay budget. Councilman Simonson commented on setting as a first priority the seal coating of the roads, and if funds are left over consider the water tank. Councilman Day would like a re examination of the budgets to reconsider seal coating doing planned seal coating and added two jobs. Item tabled.

Re-Staffing Positions:

Clerks Office: City clerk presented reason for hiring a person in the clerk's office. Number one reason was to add segregation of duties and to provide backup in utility billings, account payable and payroll. Additional cost of bring in second person could be offset with a reduction in office hours from 40 per week to 35 hours per week. The administrative budget does have sufficient budget to allow for a second person working between 30-35 hours per week. City hall would still have hours 8:00 to 5:00. Computer previously in water/sewer office would be moved to front desk saving a cost of new computer. Councilman Day commented that smaller cities have issues in segregation of duties. Mayor Smith responded, yes in smaller cities but felt such a deficiency is a concern needing attention. Councilman Simonson commented having one person doing all functions puts not only the city at risk but that individual as well. Mayor commented the hiring freeze was put in under Mayor Brown and the freeze is still in place. Being no further discussion, the Mayor asked for a motion.

Simonson moves to approve the hiring of a person in the clerk's office. Gay Lynn Seconded. Attorney commented to allow hours to be set at discretion of Mayor. Simonson amended motion to include hours at discretion of the Mayor, and Councilwomen Hinckley changed 2nd.

Being no further discussion, Mayor calls for a roll call vote:

Hinckley	Aye
Maloney	Aye
Simonson	Aye
Zimmermann	Aye
Blackburn	Aye
Day	Aye

Water and Sewer Position: The Mayor lead the discussion of the issues that have come up since Jim Anderson left the city. One of the problem is in exercising water values, which have not

been done on any consistent basis. Another problem is not knowing if the valves are working or not working and when an emergency arises wherein water needs to be isolated to shut water off. Sewer lines have not been cleaned under a systemic time table. Another problem is in fire hydrants which also need to be tested.

Short discussion on qualification of person. Ideal person will have some prior work experience and hopefully Class I certification in water/sewer or an "employee in training". Clerk commented that Jim salary was budgeted for 50% water and 50% sewer and the budget amounts are still there.

Councilman Day moves to hire a water/sewer maintenance person. Councilman Zimmermann second. Being no further discussion –

Mayor calls for a roll call vote:

Maloney	Aye
Simonson	Aye
Zimmermann	Aye
Blackburn	Aye
Day	Aye
Hinckley	Aye

Building Deficiencies:

The Mayor handed out a report prepared by Assurance Inspection & Testing (AIT), Mike McCowin. At the Mayor's direction McCowin was requested to issue a report on the deficiencies on the apartment buildings/townhomes on Caribou Street. The report had pictures and short narrative associated with each deficiency. Council reviews the report.

Attorney Dunn suggested letters be sent out as soon as possible and in addition to have a City employee verify the issues presented in the AIT report. Councilman Day indicated he would participate in the verification if not in conflict. Attorney wanted a second city employee verification, "in addition to" the AIT report. Attorney will explain to the designated person what exactly what information he would like.

Councilman Blackburn moves to have attorney review deficiencies identified in the report and initiate corrective action to the property owner. Councilman Simonson seconded. Being no further discussion –

Mayor calls for a roll call vote:

Simonson	Aye
Zimmermann	Aye
Blackburn	Aye
Day	Aye
Hinckley	Aye
Maloney	Aye

Moratorium on R-2, Condo and Townhouses:

The Mayor following the discussion under building deficiencies he would like to have a moratorium placed on R2, condo and townhomes so the city ordinance can be reviewed and

where building deficiencies which allowed problems encountered on Caribou be eliminated so they won't be repeated in the future.

Mayor commented that a moratorium would not affect those applications that have been approved by P&Z. Councilwomen Hinckley asked if this action would affect the Bellwood hearing, Attorney indicated it would not. Attorney commented there is a time period in which action must take place, he was uncertain as to the time period. Moratorium is an option. Moratorium stops all construction whereas an ordinance amendment until passed and approved by a new ordinance the existing ordinance stays in place. City plans on re-codifying sometime in December or January. Attorney Dunn indicated a moratorium is a "one time" action. Mayor Smith suggested turning this issue to P&Z and have P&Z redraft the ordinance. Mayor said the decision is either a moratorium or changing the ordinance in a timely manner. Restrictions on R-2 building could also be restricted in the development agreement was also noted. Councilwomen Hinckley would like the ordinance to prohibit on street parking. Mayor will contact P&Z tomorrow and report back to the council at next meeting.

Other Council Business:

- **Scouts recognized.** Troop 64 working on citizen merit badges.
- **Connie Moore:** Member of Urban Renewal still in Rexburg nursing home.
- **Burgess Canal Project:** Compaction completed today and job complete.
- **Central Fire** – Emergency training June 9.
- **Main Street Water Lines** – Completed but for one line which will completed tomorrow.
- **Chamber of Commerce** – Chamber members feels the City officials could support the Chamber in a more positive manner.
- **Jefferson Stampede** – City float on June 11, 2011. Councilwomen Hinckley will continue to work on the project.

Minutes:

- **March 15, 2011** – Councilman. Councilwomen Hinckley noted date on Bed races should reflect August 27. Maloney moves to accept, Councilman Blackburn 2nd Voice Vote – All in favor, none opposed Approved.
- **April 5, 2011** – Councilman Zimmermann moves to accept, Seconded by Councilman Simonson. Voice vote – All in favor, none opposed. Approved.
- **April 6, 2011 – Special Meeting** - Councilman Simonson and Blackburn abstain. Councilwomen Hinckley moves to accept, seconded by Councilman Maloney. Voice vote – All in favor, none opposed. Approved.

Approved Bills:

Councilwomen questioned bill on police car. Explanation given, cost of moving equipment from old car to new. Stallings bill – repair of old car wheel bearing and power steering pump.

Councilman Simonson moves to accept, Seconded by Councilman Zimmermann. Roll Call:

Zimmermann	Aye
Blackburn	Aye
Day	Aye
Hinckley	Aye

Maloney
Simonson

Aye
Aye

Public Comment:

- Scout Sam Clark: Questioned how to obtain water besides using water faucet, his home is located on 3700. ¹Attorney suggested using canal water since his home is not inside the city boundaries.
- Scoutmaster Bruce Clark – Questioned warranty on seal coating in subdivisions. Councilman Day indicated there is a 1-year warranty from the sub developer on streets.
- The Mayor thanked the scouts for the participation and attendance at this evening meeting.
- Mayor asked if there were any other comment. Being none,


Motion to Adjourn:

Mayor asked for a motion to adjourn:

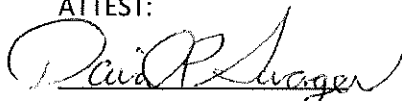
Moved by Councilman Simonson, Seconded by Councilman Zimmermann. Voice vote – All in favor, none opposed, Motion carried.

Meeting adjourned 9:10PM

CITY OF RIGBY


Keith Smith, Mayor

ATTEST:


David Swager, Clerk