

City of Rigby  
Council Minutes  
June 21, 2011

Mayor Smith opened the meeting at 7:00PM Tuesday June 21, 2011.

First order of business was the Hearing regarding **Ordinance # 2011-550-“5th West Corridor”**. Mayor Smith asked the clerk to call he roll.

Councilman Zimmermann	Present
Councilman Simonson	Present
Councilman Maloney	Present
Councilwoman Hinckley	Present
Councilman Day	Present
Councilman Blackburn	Present

Also in attendance City Attorney Robin Dunn.

Due to the nature of the hearing, Mayor Smith requested Attorney Dunn to chair the hearing. Attorney Dunn noted the ordinance has been published in the legal section of the Jefferson Star as required for all ordinances. Chair describes the purpose of the hearing being conducted this evening, rules regarding comment, time limit of 3 minutes will be observed, those speaking in favor, neutral or opposed needed to have signed in on the appropriate sign in sheets. Attorney Dunn then gave a brief background the wording of the ordinance. He explained it came from a decision and agreement entered into between the City of Rigby and the H&S Development LLC from a court case filed in district court. The agreement, as agreed to, was signed by the parties on November 20, 2007 and was filed in Jefferson County clerk office December 6, 2007. The ordinance as written is the exact wording contained in the signed agreement.

The Chair then called the city clerk forward to explain the steps the city took prior to this evening hearing.

Clerk Swager stated he had published the full text of the ordinance in the Jefferson Star and it appeared in the May11 and May 18, 2011 edition. He went on to explain he also published the notice of hearing on the front door of city hall, also caused the notice of public hearing to be published June 8, 2011 in the Jefferson Star. The notice was posted on the city web site and posted in the Rigby City Library. The city also mailed all parties within in the geographic boundary of the defined 5<sup>th</sup> West corridor.

Attorney Dunn then called forward those speaking favor of the ordinance.

**Speaking in Favor:**

Paul Hepworth:

571 Aspen Drive            Hepworth noted the ordinance was in pursuant to the agreement entered into in November 20, 2007. He has spoken on numerous other occasions regarding this agreement most recently on a proposed zone change from R-1 to R-2. He felt this topic has become a “1<sup>st</sup> North” issue. It came about due to the building of 5<sup>th</sup> West not to city standards. This agreement calls upon the city that if and when 1<sup>st</sup> North is improved, it be done according to city standards and ordinances.

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Attorney Dunn then called if any other person wishing to speak in favor of the ordinance, being none he then called upon those wishing to speak neutral.

**Speaking Neutral:**

Arron Belh                      Mr. Belh declined to comment.

Attorney Dunn -, being no other person wishing to speak, he then called upon those wishing to speak in opposition.

**Speaking in Opposition:**

Jeff Collette:

548 West 1<sup>st</sup> North - Darwin Dinsdale presented a letter from Mr. Collette into record. And Mr. Collette time is allocated to Mr. Dinsdale.

Darwin Dinsdale:

449 West 1<sup>st</sup> North      1<sup>st</sup> North is not wide enough for a collector street. All utilities would need to be relocated. No formal widening of 1<sup>st</sup> North has even been done when it was annexed into the city. Street in approx 1800 feet in length. Improvement of 1<sup>st</sup> North would require residences to spend hundred of thousands of dollars for this improvement. It has always been a minor street. Other alternatives are available: Lowder Property, extension of 4<sup>th</sup> West and access through 2<sup>nd</sup> North. Feels the streets should be at the cost of the developer. Also opposed to a LID. City does not have right of way access on 1<sup>st</sup> North. 1<sup>st</sup> North should not be written into this ordinance.

Time Expires.

Craig McAllister

571 West 1<sup>st</sup> North      – waives his time to Mr. Dinsdale whose comments are posted above.

Linda Scanlon:

445 West 1<sup>st</sup> North -      Commented on the ordinance that she has not given permission to the city to claim any portion of her land and is a violation of her 1<sup>st</sup> Amendment Right.

Deanna Dinsdale:

449 West 1<sup>st</sup> North -      (Presented a map of 1<sup>st</sup> North to the council.) Commented on which section of 5<sup>th</sup> West needed to widen to be in compliance. Feels 1<sup>st</sup> North has nothing to do with the compliance of 5<sup>th</sup> West. Council approved design of 5<sup>th</sup> West. City owns no right of way. Stated her street was assessed on a prior LID and only received a little seal coating for the assessment they paid.

Jack Scanlon:

445 Wes 1<sup>st</sup> North:      Has two purposes in speaking tonight. First: the city blew out his sewer line during the cleaning and requested a letter stating why the city refuses to pay one-half of the cost of the sewer line replacement. Second: he is opposed to any improvement on 1<sup>st</sup> North.

David Lewis:

560 West 1<sup>st</sup> North-      Feels the clause relating to 1<sup>st</sup> North be stricken from the ordinance. Rumors of an LID being created. Feels the cost is too much to for the residences to bear. To widen 1<sup>st</sup> North feels

an infringement on existing property.

Carmen Messinger:

598 West 1<sup>st</sup> North- (Craig McAllister read letter on behalf of Mrs. Messinger.) Commented that there has never been a survey done on the street. Does not feel the residences should not have to pay for road for developers. Her home sits on the corner of 1<sup>st</sup> North and 5<sup>th</sup> West and does not feel she should have to pay improvements since 5<sup>th</sup> West was put in as access for the subdivision.

Ken Smith:

480 North 3<sup>rd</sup> West Commented on access. Presented background information on Hunter Creek subdivision. Suggested extending 4<sup>th</sup> West to Hwy 48. When asked if he would be willing to sell the property Smith comment was no. No other discussion was done. Property since being annexed is now available for sale. Suggested making 1<sup>st</sup> North a one-way street and leave the residences alone.

Time expires.

Barbara Gentle

191 North 3<sup>rd</sup> West - (Gave her time to Mr. Smith to continue.) Discussed problems on sewer line on 1<sup>st</sup> North, short section needs work balance of line is good and does not need work. Sewer filtration system is not in compliance and needs attention.

Dale Jensen:

515 West 1<sup>st</sup> North- Commented on the condition of 1<sup>st</sup> North, the amount of work needed to make the road with front yards being only 20 feet. Feels this is being done for the benefit of one person the developer.

Paula Jensen:

Transfer time to BJ Driscoll.

515 West 1<sup>st</sup> North

Bess Stoddard:

212 North 4<sup>th</sup> West Concerned with the cost associated with the creation of an LID. Concern over the constant raise of utilities fees. Fixed income homeowners can not continue to pay increase fees.

Clayne Stoddard:

Transfer time to BJ Driscoll.

212 North 4<sup>th</sup> West

BJ Driscoll:

414 Shoup Ave, Idaho Falls Speaking on behalf of several residences of 1<sup>st</sup> North. Requested paragraph E be eliminated. Items not addressed to date: 1) Designating 1<sup>st</sup> North as collector street creates a variance which is a violation of city code. 2) Clarification of city standards. Question changing a minor street to a collector street. Adding curb and gutter is different than bringing the road to classification of collector street. According to comp plan Hw 48 is the only collector street and 1<sup>st</sup> North does not connect to Hwy 48. Variance must be held in planning and zoning. Reason to strike paragraph E: Requires a variance; specific language in paragraph E can be held void due to the language being vague – not clear as to clarity. Vagueness of “if and when” is indefinite in time. Reference of “street improvement” what does this mean – lack of definition. To make 1<sup>st</sup> North a collector street is a major

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deviation of the sub division ordinance of the city.

Pam Cardell:

579 West 1<sup>st</sup> North Is opposed to 1<sup>st</sup> North being a collector street. Not that the city is taking our yards but the time spent in getting it to the point it is.

John Berg:

585 West 1<sup>st</sup> North - Opposed due to cost of improvement being on fixed income. Concern about the resale value of his home.

Terry Cardell:

579 West 1<sup>st</sup> North Inquired if the council had received copies of the petition sent in earlier last week. Asked if a survey had been done, consider the price of land, utilizes having to moved, traffic study. Additional answers need to be asked prior to decision.

Terry Kofoed:

469 W 1<sup>st</sup> North During the past 12 years there has been three attempts to protect our road. Concern over definition of collector street. Vague as to width of collector street could be as little as 40 ft and still meet ordinance. Feel Section E should be stricken.

Todd Johnson:

446 W 1<sup>st</sup> North Feels if the ordinance is adopted, the cost will be borne by residences.

Victor Gentle:

191 North 3<sup>rd</sup> West Waived time

Keith Woodhouse.

535 West 1<sup>st</sup> North Waived Time

Wayne Peterson:

580 West 1<sup>st</sup> North When he moved to Rigby he selected that street for the quite street that it was. If the street is made a collector street he feels he would have to move.

Corey Walker

547 West 1<sup>st</sup> North

Waived time.

Amber Walker

547 West 1<sup>st</sup> North

Waived Time.

Stacey Grant

482 West 1<sup>st</sup> North

Waived Time

David Grant

482 West 1<sup>st</sup> North More on the neutral than opposed after speaking with Mr. Hepworth. Consider this a huge misunderstanding. Feels improvement need to be made on the street. Feels the city should look for assistance for low income families.

That concludes those who signed up. The attorney asked for additional person wishing to speak to come forward.

Scott Stoker – Paul Hepworth speaking on behalf of Scott Stoker. Agreement as signed states road width is 48 feet. Stated Mr. Dinsdale was personally involved in the building of 5<sup>th</sup> West and is now using the non compliance of the 5<sup>th</sup> West road as an issue against our development again. The mistake was made by the primary proponent leading this effort tonight. Requested the city honor their agreement. 5<sup>th</sup> West does not comply with city standards nor were prior work done as agreed to in earlier prior to the current agreement. 1<sup>st</sup> North is to be built to collector street standards not as a collector street.

Attorney requested additional person share time with Mr. Dinsdale

Darwin Dinsdale  
449 W 1<sup>st</sup> North (Speaking on behalf of Steve Woodhouse.) Stated that Jim Mullen of Keller designed 5<sup>th</sup> West (held up papers showing same). Mr. Dinsdale stated he is not a civil engineer. He was not in charge of building 5<sup>th</sup> West. Why is he being charged as building 5<sup>th</sup> West?

Ken Smith  
480 North 3<sup>rd</sup> West (Speaking on behalf of Amber Walker.) Property concerning 2<sup>nd</sup> North was out of the letter sent to Mayor Anderson. Hepworth plat showed 2<sup>nd</sup> North as an access. There were two other accesses beside 1<sup>st</sup> North.

Attorney again called if anyone wishing to speak to come forward. Being none attorney closed public comment at 8:20PM and turned remaining time over to the council.

Mayor now chairs the meeting.

Councilman Day: Asked Mr. Hepworth to podium. Asked Mr. Hepworth if he has not attempted to resolve this issue. Hepworth answered in the affirmative. Councilman Day asked Hepworth if paragraph E could be modified.

Attorney interjected stating this was not the forum to renegotiate the definition.

Councilman Blackburn: Interjected to Hepworth that 5<sup>th</sup> West was designed to be wider than as built and two problems of the land bridge being too narrow and two curves in the road being narrow. Hepworth commented that 5<sup>th</sup> West was to be the main access to the subdivision. The proposed bridge on 4<sup>th</sup> west got blocked, the access from 2<sup>nd</sup> North got block with the comment "over my dead body". Stated a compromise could be modified but without his attorney the agreement needs to be passed as agreed to.

Attorney Dunn on behalf of Mayor Smith explains city code 11-5-4 states the streets width standards are in "general", which does not mean absolute.

Councilman Blackburn: Questioned if any traffic study had been done? Then commented the development has impacted traffic.

Attorney responds: Language of “if and when” has been overlooked. Means in the future. There is no intention of the council at this time that nothing is planned on 1<sup>st</sup> North. As for the other issues deemed not relevant.

Councilwoman Hinckley Understood on the priority list of the sewer project, 1<sup>st</sup> North is listed as number 10.

Attorney Respond Understood that was correct, but given that it could be moved down on priority list.

Councilman Day City is not building a road on 1<sup>st</sup> North. Prior to even building a hearing must be held and property acquired. ITD had no involvement on 5<sup>th</sup> West. Mr. Dinsdale opposed the LID in the late 70's according to a newspaper article (Day held up article). Public need to research the facts and not accept rumors just because someone said something. Utility if they are needed to be relocated, the utility companies at their expense relocate the utilities. Property owners do not want traffic on 1<sup>st</sup> North but did you consider your own impact when you drive on other streets or when you moved into the area? Seems the most concern is over an LID that is not planned.

Councilman Simonson Came on council over concern over how funds were being spent. He went to ITD and inquired if ITD had been approached regarding the 5<sup>th</sup> West road. ITD reply was no the city had not approached ITD about access onto Hwy 48. ITD did require the road moved east from the design due the intersection with existing road south of Hwy 48.

Attorney suggested call for a motion.

Mayor: Repeated the ordinance is following a court order and no LID is planned. Mayor then ask for a motion to approve Ordinance #2011-550 as written.

Councilman Day moves to accept ordinance #2011-550; Councilman Simonson second.

Question:

Councilman Blackburn - Requested clarification on the wording of collector street and if the width could be changed.

Attorney Responded The modification of the wording is not an issue before the council in the motion.

Councilman Day Asked legal question – Does the court order agreement and the ordinance follows the court order?

Attorney Respond Concern over the issue, misinformation has been presented and again LID is not on the table. This ordinance is not impacting anyone only what has transpired from the court agreement.

Mayor request clerk to call the roll (in favor of the motion):

Councilman Simonson	Aye
Councilman Maloney	Aye
Councilwoman Hinckley	Aye
Councilman Day	Aye
Councilman Blackburn	Nye
Councilman Zimmermann	Aye

Motion Passed.

Mayor: This concludes the public hearing of Ordinance #2011-550.

Mayor calls for a 5 minute recess after which regular council business would resume. (Meeting recessed at 8:47PM).

Meeting called to order at 8:55 PM

Mayor asked for Robin Dunn to lead the Pledge of Allegiance followed by the prayer given by Councilman Zimmermann.

**Muscle Car Show:**

Permission given to be held July 9, 2011 on Courthouse Way. The Mayor mentioned this would probably be the last time it would be held at this location being it would be seal coated this summer.

**Audit Contract:**

The audit proposal from Jensen and Poulsen was presented before the council for approval. The clerk noted the fee was the same as in prior year. Clerk recommended adoption of the contract. Motion to accept and sign the contract as presented moved by Councilman Simonson, seconded by Councilman Zimmermann.

Mayor request clerk to call the roll:

Councilman Maloney	Aye
Councilwoman Hinckley	Aye
Councilman Day	Aye
Councilman Blackburn	Aye
Councilman Zimmermann	Aye
Councilman Simonson	Aye

Motion Passed.

### **Intergovernmental Insurance Authority**

The Mayor and clerk gave a brief explanation of a recent meeting they attended regarding cities pooling together to form an insurance group with a larger employee pool. A larger pool should assist in reducing insurance premiums through coverage of a larger pool. Decision withheld pending next council meeting in which Carlos Aponte will address the council.

### **Resolution 158-2011- US Bank Investment Authority.**

Clerk introduced the resolution wherein council gives authority to invest city funds with US Bank. Attorney Dunn read the resolution into record (copy attached). Discussion followed wherein the wording of "with the consent of two" is to be added to the resolution.

Motion by Councilman Blackburn, Seconded by Councilman Zimmermann.

Mayor request clerk to call the roll:

Councilwoman Hinckley	Aye
Councilman Day	Aye
Councilman Blackburn	Aye
Councilman Zimmermann	Aye
Councilman Simonson	Aye
Councilman Maloney	Aye

Motion Passed.

### **Partial Repayment of 4% Employee Holdback and VEBA-HRA Funding:**

Clerk presented a list to the council showing a partial repayment of the 4% salary withheld totaling \$ 5,534.87 and on the same page a funding of \$150 to qualified employees for VEBA-HRA funding. The clerk explained there is money budget in the general fund discretionary account which would fund the expenditures. He went on to explain the holdback was a verbal commitment made to the employee when it was enacted that as the finances of the city improved they would receive the amount withheld paid back to them. This would be the second installment that has been repaid.

Mayor Smith commented that he agreed with the payment, that the city told the employees the foregone amount would be repaid and it should be repaid given the finances of the city.

Councilman Maloney moved to repay the amount presented and to fund the VEBA-HRA account also as shown, seconded by Councilman Simonson.

Mayor request clerk to call the roll:

Councilman Day	Aye
Councilman Blackburn	Aye
Councilman Zimmermann	Aye
Councilman Simonson	Aye
Councilman Maloney	Aye

Councilwoman Hinckley      Aye  
Motion Passed.

**Report on Rigby Airport:**

Board chairman John Anderson presented a report on the past, current projects being considered for the airport. The most recent grant involved grant for increased tie downs. The bylaws have been amended to allow for persons outside Jefferson County to serve on the board. The chairman thanked the council and its employees for their assistance when called upon. Grants are being sought to improve runway lighting. Currently power is being brought for a pilot lounge and garage. Grant is currently being sought for one additional taxi runway. Looking at obtaining a refueling station at the airport.

The Mayor commended Mr. Anderson, being a non-pilot, for his service to the airport board.

**Water Study Update:**

Rick Miller from ECIPDA gave the council on the water study project. In addition the city was selected to receive loan funds up to \$6 million for water system improvements. Entities wishing to use loan funds must have funding authority and environmental assessment completed by January 2012. Keller's is working on the environmental assessment and estimate of costs and should be complete prior to January 2012. Discussion on funding Low/Moderate Income Families and how to implement household that qualify one year and do not qualify a second year. Ted Hendricks discussed how the program works.

Miller and Hendricks will present additional information at next council meeting. Discussion on the merits of waiting until later in the construction after the sewer block funds have been expended to apply of a block grant to assist low/moderate household with cost of the meters.

Block grant for the sewer project was awarded. ECIPDA will discuss this in more detail at next council meeting.

**Other Council Business:**

Museum: Councilman Maloney was asked by the museum if the city had a steel post that could be install as a barrier around the museum building.

Parade: Councilwoman Hinckley expressed her thanks for the council participation in the parade.  
Sewer filtration System Review: Councilman Blackburn asked about the review on the other company proposal on the second filtration system. Mayor commented the company has yet to make arrangements.

Benches: Councilman Zimmermann inquired about the Urban Renewal benches. Lamoreaux commented some of the benches have been installed.

**Approval of Bills:**

A listing of bills to be approved was presented. Motion to approve the bills presents was made by Councilman Blackburn, Seconded by Councilwoman Hinckley.

Councilman Blackburn      Aye  
Councilman Zimmermann      Aye

Councilman Simonson      Aye  
Councilman Maloney      Aye  
Councilwoman Hinckley      Aye  
Councilman Day      Aye

Motion Passed.

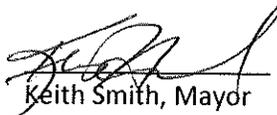
**Approval of Minutes:**

Minutes of June 7, 2011 were review for approval. Spelling of Ms. Young name was noted being incorrect. Special Meeting: Councilman Blackburn was absent and abstained from voting. Motion by Councilman Zimmerman to approve minutes, seconded by Councilman Maloney. Voice roll call- all approved, opposed -none. Motion passed.

**Adjournment:**

Councilman Simonson moved to adjourn, seconded by Councilman Zimmermann. Voice vote – all in favor; no one opposed. Meeting adjourned 9:50PM.

City of Rigby



Keith Smith, Mayor

ATTEST:



David Swager, Clerk