

City of Rigby
Council Meeting Minutes
January 2, 2013

Mayor Smith called the meeting to order at 7:00PM Tuesday, January 2, 2013.

Joe Sites led the pledge of allegiance and Tony Carpenter offered the prayer.

Mayor Smith asked the clerk to call the roll.

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

Also present: Attorney Rob Dunn & Chief Hammon.

New Planning and Zoning Members:

The Mayor asked Joe Sites and Tony Carpenter, who were in attendance, to come forward and be sworn into office as planning and zoning members. Both came forward and the Mayor administered the oath of office.

Sites and Carpenter exit meeting at 7:08PM.

Public Hearing:

The Mayor opened the meeting informing the public there was a public hearing to amend the city ordinance relating to alcohol beverages. He noted no one had signed up to speak in favor, in opposition or neutral to the proposed change. He then asked if any person not having signed to speak wished to speak could do so at this time. Being none he asked the clerk to present the amendment.

The clerk came forward and explained the steps taken relating to the ordinance. He indicated the council had reviewed the changes and voted to proceed with the reading and publication of the amendment. The amendment has been published twice in the Jefferson Star recapping the changes in summary form and setting the date for public hearing.

Recap of the summary is listed below:

Amending City Code Relating to Beer, Wine and Liquor Licenses; Expiration and Renewal of License; Bartenders and Bartender Permits; Repeal of hours of sale – liquor by the drink; Deleting restriction on sale of liquor on days of primary and general election; Allowing for a proration of annual fees; providing for an effective date.

The clerk concluded his presentation.

The Mayor asked Chief Hammon if the police department had any concern with the proposed changes. To which he indicated he did not have any.

Having no further discussion, the Mayor called for a motion.

Motion by Councilman Blackburn moved to approve and accept the changes to the city code relating to alcohol beverages as presented, seconded by Councilman Maloney.

Mayor Smith asked the clerk to poll the council.

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

Other Council Business:

- Report on Peck Omsby Suit: Attorney Dunn recapped for the council the status of the suit with Peck Omsby/Parkson. He informed the council things have somewhat slowed down due to a motion filed by Peck in the Ninth Circuit to force the parties into arbitration. The District Court Judge has previously ruled on the motion and denied the motion stating the issue was not in the master contract between the parties therefore arbitration could not be forced upon an unwilling party. Pending the results of the ruling from the Ninth Circuit the trail which is scheduled in 2013 has been placed on hold.

He further discussed the various motions that have been filed have been decided in favor of the city. During the discussion held in mid-summer during mediation and afterwards, Parkson would like to settle the suit but the general contractor, Peck, does not.

Councilman Zimmermann asked why not go to arbitration. Dunn explained the rulings from arbitration cannot be appealed, and while he is somewhat confident in the city's position a decision by jury would favor the city. Arbitration is more attune for settlement in the corporate world.

Councilman Blackburn stated that the city was at one time looking at completing the filtration system and inquired if the repairs were still being considered. Dunn explained that about 6 weeks ago he had received a telephone call from a representative from Aqua-Robotic indicating there desire to assist in the system. Aqua-Robotic had been contacted when it became evident the Parkson system was not going to work. And had been informed they were not interested. During the discovery process the former employee with Parkson has left the company

and started his own filtration company in north Utah. He has a system which may work. Now that Aqua-Robotic has made contact with Rigby, that information has been forwarded to Mike Jaglowski of Keller's. The council needs to decide after Jaglowski issues a report whether to proceed or not. To proceed and repair the system prior to court settlement, will assist the city to mitigate its loss.

Councilman Blackburn asked if it would be in the city best interest to complete the filtration system. Dunn responded that the completion of the filtration system would provide certainty as to what the city's costs were if presented before a jury.

- Prescriptive right of ways: Councilman Blackburn asked about the status of staking right of ways along 1st North. Dunn informed the council that he had been in contact with Dioptra about writing a legal description for that section of 1st North that 1st American could not complete a title search. There is one section that is not in the records of the title company. Once the legal description is obtained, Dioptra would be meeting with the property owners to review the location.

Councilman Zimmermann asked if some of the property could be staked for the known boundary. The clerk responded that he has contacted Dioptra prior to Christmas about staking the known properties and he has not heard back from Dioptra. But he would follow up with them this week.

- Impact Fees: Councilwoman Hinckley asked about whether the city has begun anything relating to impact fees.

Councilman Simonson indicated the city had begun the process with the county at one time but somehow the process got dropped.

The clerk indicated the process is costly and time consuming. It's not something that can be thrown out and adopted. It requires a study from technical personnel to assess what impact certain development creates. Given the need to re-codify the city ordinances and update the city comp plan, impact fees at this time is not planned.

- Development Agreement: Councilwoman Hinckley asked about the development agreement with the Oaks Retirement. Dunn indicated the agreement starts with the county then comes to the city.
- Chamber Letter: Councilwoman Hinckley indicated the chamber will meet the month at which time she would hand them a letter of appreciation for their support with the Christmas lights.

Approval of Bills:

Council reviewed the bills for the month. The clerk indicated there was one more additional bill that needed approval. The bill from Blue Cross for the employee

insurance for January requires a premium of \$10,576. Blue Cross has picked up the employee insurance beginning January 1, 2013 and the advance premium needs to be submitted along with our application.

Councilman Zimmermann asked about the billing from Keller's regarding construction inspection fees and a charger for the police car.

A motion by Councilman Zimmermann moved to approve the bills seconded by Councilman Simonson.

Mayor Smith asked the clerk to poll the council.

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

Review and Approval of Minutes:

Councilman Simonson moved to approve the minutes of December 18, 2012 seconded by Councilman Blackburn. The Mayor call for a voice poll: All in favor none opposed.

Public Comment:

The Mayor asked if there was any public comment. There was none.

Executive Session:

Councilman Day moved that the council enter into executive session per Idaho Code Section 67-2345(b) seconded by Councilman Maloney.

Mayor Smith asked the clerk to poll the council.

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

Councilman Day requested the attorney not be in attendance during the executive session.

Attorney Dunn exist meeting at 7:30PM and council enters executive session.

Council exits executive session at 8:57PM.

Discussion on Attorney's Contract:

Councilman Simonson moved to table the item seconded by Councilman Maloney.

The Mayor call for a voice poll: All in favor none opposed.


Adjournment:

Councilman Simonson moved to adjourn seconded by Councilman Zimmermann.

The Mayor call for a voice poll: All in favor none opposed.


Council adjourned at 9:00PM.

CITY OF RIGBY



Keith Smith, Mayor

ATTEST:



David Swager, Clerk