

City of Rigby
Council Meeting Minutes
November 3, 2016

Mayor Richardson called the meeting to order at 7:00pm Thursday, November 3, 2016. The pledge of allegiance was given Councilwoman Thomas and the prayer given by Councilman Olsen.

The mayor asked the clerk to call the roll:

Councilman Olsen	Present
Councilman Burke	Present
Councilwoman Thomas	Present
Councilman Datwyler	Present
Councilwoman Weight	Present
Councilman Taylor	Present

The mayor indicated there would be four public hearings this evening. Each of the hearings had sign in sheet at the front of the room on each of the topics. Those wishing to speak this evening on anyone of the four topics would need to sign the respective sign in sheet. The first public hearing will be the request for zone change on South 5th West by Richard Marler.

Zone Change – S. 5th West:

Richard Marler representing himself indicated the property in question had been zoned R-2 at the time he purchased the property about eight years ago. Since then the property has changed to R-1. All of the property across the street and north of his property is zoned either commercial or R-2. He didn't know how or why the property was rezoned to R-1. He made the request before the planning and zoning commission and after hearing the request, Mr. Williams, planning/zoning commission member, remembered that the property had been zoned R-2 and he too didn't know how the property got changed. Mr. Marler also mentioned that he would like a refund on the \$500 fee he paid and feels the zone change was a clerical error and he should not have to pay the \$500 re-zone fee and requested the fee be refunded to him.

The mayor recapped the p/z minutes and noted there was no opposition to the zone change. The mayor stated that since the property is zoned R-1 the council needed to address the issue to change the zone to R-2. The mayor asked the attorney to review the points the council needed to consider in the request for zone change.

The attorney noted four points that the council should consider:

- Is the zone consistent with the comprehensive plan?
- Is the property surrounding it consistent with the adjoining structures as to their zone and not being spotted zoned?
- Is the proposed zone change for a large track of land, usually not done on small tracks where variance or conditional use permit would be issued?

- Council discretion, where the council feels the zone doesn't fit or where an error has been made.

The mayor reviewed the comments made by the attorney and referred to the comp plan. He noted from the comp plan the property is referred to in the comp plan as commercial and the property fits with the comp plan. The last item, is this the best use of the property. Which he feels would fit the comp plan.

Councilman Datwyler attended the planning zoning meeting and confirmed that the p/z board did refer to the comp plan and feels the correct zone should be R-2.

Councilman Olsen moved to approve the recommendation from the planning/zoning commission and approve the zone change to R-2. Motion seconded by Councilman Burke.

The mayor asked the clerk to poll the council:

Councilman Olsen	Yes
Councilman Burke	Yes
Councilwoman Thomas	Yes
Councilman Datwyler	Yes
Councilwoman Weight	Yes
Councilman Taylor	Yes

The mayor told Mr. Marler they would review the request for a refund of the \$500 at a later date.

Zone Change – 359 N 3rd West:

The mayor asked the police chief to bring all the sign in sheets forward and asked if anyone in attendance who had not signed them would be given time to do so.

In favor of the zone change: Kevin Thompson representing the developer read from a letter he drafted dated October 31, 2016. (Copy attached to these minutes.) He indicated the current zone is R-1 and the proposed change was to allow mult-family buildings. There currently is mult-family west of the property and is contiguous. The comp plan encourages "infill" empty lots such as this parcel is. With the proposal, there would be no impact on city services.

Councilman Taylor had concern with the definition of "contiguous." Not contiguous but for the back yards.

Councilman Datwyler had concern with egress and ingress on the property onto 3rd West. Thompson discussed having a single road going around the perimeter of the property or to have one road for both.

Councilwoman Thomas asked if there had been other consideration beside mult-family units. Another consideration would be to have a single large parking lot servicing all the units.

Councilwoman Weight had concern for visitors parking.

Councilman Olsen expressed concern with the affect on surrounding yards and a buffer zone between the single family homes and the apartment units.

Jesse Byrum: Speaking in favor and the realtor on the property, noted that the project would enhance city's revenues and allow for growth in the city which adds to business.

Joel Robison: Speaking in favor and as developer on the property presented a similar project completed in Rexburg. He noted that Rexburg allows eleven units on 3 acres. He stated the property will not be low income. And, due to the limit that the city has placed on the property this has reduced the number of units from ten to eight the units which will have to command higher rents and other services.

Speaking in opposition:

Barry Lewis: Mr. Lewis noted there were a large number of patrons appearing in opposition to the project at the planning zoning hearing. He commented that just because the back yard adjoins the project does not justify the reason for granting R-2 zone. He is also concerned with water and sewer; impact on traffic with cars entering/leaving the project. He also has concern with police issues that Caribou causes. Finally he is concerned with the impact on the adjoining single family homes.

James Southerland: He home abuts the property in question. He favors R-1 over R-2. He feels the property doesn't provide a straight thru but will need to have a cul-de-sac. This is being sandwiched in R-1 homes on three sides. R-2 zoning on this property needs careful attention to detail. Mr. Southerland noted that rental properties denote one factor: deterioration.

Jerry Simonson: Also represent Mrs. Lazalde, who is in attendance. Mr. Simonson does not feel the project does not meet city code. The property borders R-1 homes on three sides. R-1 zones need to be protected. Traffic will increase with a potential of 56 vehicles coming and going daily. On-site parking includes not only cars but boats, campers etc. Only one exit onto 3rd West. Concern with egress and crosswalks. Increased number children living in the project with children walking in the road way and across the bridge on 3rd West. Once R-2 zone is granted, the city losses control of what can be built on the property. Concerned with the ability of the project to handle the sewer and water.

Linda Simonson: Feels the development is not consistent with adjoining property. Also has concern with children walking in and out of the project. The property adjoins the canal and they need to walk in the road to cross the bridge.

Melissa King: Delivered a petition containing 60 persons who signed in opposition to the development. As a prior renter she knows rental property deteriorate and is abused by the tenants. Concern with traffic and children. The home owners purchasing homes along the project never thought an apartment would be built in their back yards and had they known that may not have purchased those homes.

James Barron: He bought his home sight unseen. He researched the city and liked that it was a family oriented city. He knew Mr. and Mrs. Crank, and when they were alive they were opposed to the

Pioneer Park subdivision and feels they would not want their property turned into multi-family housing. Multi-family apartments devalue single family homes.

Becky Harrison: She used to live in Springville UT and left due to the congestion in the city. Living near a 24-unit apartment after about 10 years the apartments went to low income property to pay the mortgage. Small cities have a longer lead time when projects come into an area than larger cities do. Pets will also be a factor. The schools are already overwhelmed. Crime and traffic will increase. Rigby is not Rexburg and doesn't feel high income persons will be attracted to Rigby. The comp plan was done by the city and was done without public input.

Misty Stoker: The property is surrounded by R-1 homes and just a slight sliver is R-2. Her and her husband is continually fighting to keep undeveloped lots from being turned into apartments. Caribou Street to the west has been approved for R-2 development. Homeowners want a buffer from apartment buildings and living in Hunter Creek do not want to continually fight to protect R-1 housing.

Michelle Robinson: Lives in the Hunter Creek subdivision and does not want her home surrounded by apartments. Issues similar to this will make them reconsider living in the city versus the county.

Scott Stoker: When he developed his subdivision they considered R-2 zoning in a portion of his subdivision but didn't because R-2 deter from their vision of single family subdivision. Homeowners are moving out of the city because they have to continually fight to protect their home value from the incursion of R-2 homes in their subdivision. There is a need for R-2 but not in an area surrounded by R-1 homes. Helen Crank opposed Caribou Street being zoned R-2. Hunter Creek developers did not want access from their subdivision into Pioneer Park from with 4th West or 5th West.

Stacy Byington: The canal along the property is a draw for kids. Their property is always subject to theft and vandalism. The canal is not a buffer to her property. Rigby has different demographic than Rexburg. BYU students living in the apartments will have more than one car – more likely one car per student not two cars per unit. It will be in her backyard and she is opposed to it.

The mayor indicated that the city has water and sewer capacity to handle the project. Councilman Burke indicated the plant was at 48% capacity.

Rebuttal:

Kevin Thompson: The cul-de-sac will be limited to both one road in and one road out regardless of the development. 40-foot width road is wide enough to handle the development. Development of both Pioneer Park and Hunter Cr. has all been fought with opposition. The same issues discussed this evening were all brought up during those developments. One of the requirements in the state statutes says it must be contiguous. He went on to quote the definition of contiguous from Webster dictionary. Sometimes public opposition is wrong. Take the improvement on 1st North: large public opposition at the time but in the long run, everyone likes the improvements.

Councilman Datwyler: Asked if the developer had considered R-1 housing instead of R-2. Mr. Thompson indicated no, the developer was looking at R-2 housing and had not considered R-1. Statement from the developer indicated the property would be purchased contingent on it being zoned R-2.

Public hearing closed: 8:37pm

Discussion from council:

Councilman Taylor: Access from the development to parks will need to go through R-1 zones. The property is not accessible via a street without going out of the R-2 zone then through a R-1 zone to enter a R-2 zone, if feels it is not contiguous under his definition.

Councilwoman Weight is concerned that the development is not compatible with the surrounding area and homes.

Councilman Olsen has concern with the development being developed along the canal with children. He is pro growth but wonders if this is "growth".

Councilman Taylor indicated the property can still be developed as R-1 property.

Councilman Datwyler favors growth but not encroachment.

Councilman Datwyler moved that the council deny the application for zone change from R-1 to R-2 seconded by Councilwoman Thomas.

The mayor asked the clerk to poll the council:

Councilman Olsen	No
Councilman Burke	No
Councilwoman Thomas	Yes
Councilman Datwyler	Yes
Councilwoman Weight	Yes
Councilman Taylor	No Yes

Having a tied vote the mayor began his discussion about deferring his vote at the present time. He felt extending a mistake is not in the best interest of the city.

Where upon Councilman Taylor asked what the vote was: three in favor and three opposed.

Councilman Taylor stated he needed to correct his vote to reflect that he did not want the property zoned R-2. Having corrected his vote the vote than became four opposed to the zone change and two in favor of the zone change.

The motion passed: denial of zone change.

Proposed Grant Hearing:

Rick Miller representing the Development Co., addressed the proposed grant application to add a reservoir storage, a new booster pump and possibly a new backup generator. He noted the city may be late in getting everything together for the grant which has a due date of November 18, 2016. The

application is to seek state grant up to \$500,000 on the proposed project cost of \$2.5 million. Construction of the facility will be sometime in the spring/summer of 2017.

There are two stipulations prior to being awarded the grant: 1) Do you have funding and 2) Do you have an engineer on board for the project. Normally you would have the funding in place along with an engineer. DEQ has indicated they would be in favor of funding the project. The city has sent out RFP for engineering services.

Councilman Olsen commented that he felt the process is being rushed and we're at the tail end of process. The mayor wanted to comment on Councilman Olsen's statement after Rick replied to Councilman Olsen's concern.

Councilman Olsen also expressed how with the water mitigation calls coming how the storage tank would or would not negate the water calls. Discussion followed that the water calls versus having available storage are not the same thing. The new tank would provide storage of 1.5 million gallons. Daily consumption averages 64 million gallons per day. The addition of a new tank will aid.

The mayor addressed a letter he and the council received from one of the engineering firms that the city sent. Their concern was the limited amount of time from the receipt of the RFP to the due date November 9, 2016. This narrow window would not allow any engineering firm adequate time to review the scope and needs of the city and therefore declined to submit an RFP. Their feelings were to delay the project one year to allow more time. The mayor stated that the request for RFP may meet the letter of the law does it meet the spirit of the law. Has the city moved so fast that the city is not getting the best engineering services for the city?

Mr. Miller asked if the council was committed to the scope of the project: storage tank, booster pump and backup generator. The second would be is the city hurrying thru the procurement process and need more time to secure an engineer via the RFP proposals. Given that, the city doesn't need to commit to an engineering firm at this time but the city would need to have procured an engineering firm at a later date. But the application does need a good scope of the project and engineer's estimate. Miller mentioned that it has been several years since the last procurement and state has indicated the city should go through a new procurement process. The grant application can be submitted based on the work of the current engineer for budgets and estimates and the city can continue with the engineer procurement past November 18.

Council discussed the basic need and reason for the storage tank and was not aware of the water study being discussed. The storage tank will help during peak summer water and for fire delivery if a high water use is being used and additional flow is needed for fire suppression. Is the tank needed right now or can it be installed at a late date? With the new debt can the city pay that off? The council got the correct daily pumping is 6.4 million per day and not the 64 million stated earlier. Why does the city need two storage tanks? The reference of the water study kept being brought up.

Mr. Miller mentioned that if the council was unsure we could apply for the grant and complete the process next year. The application will be received better if the city completed the RFP for the engineer and obtain DEQ funding. Mr. Miller was unsure of how everything will come together next year. This year it appears to have a low submission of applications this year. Mr. Miller indicated we have low water rates but high sewer rates and with low water rates could work against the city.

Public hearing closed.

Public Hearing – Building Inspection Fees:

The mayor opened the discussion to the public concerning adoption of building inspection fees.

Scott Stoker: Mr. Stoker asked about the fees and how they compare with the current fees. The mayor indicated with the city changing over to Jefferson County the city needed to adopt the fees that the county is charging. Mr. Stoker commented that the fees charged in Rexburg are the same that Jefferson County charges but without the all the other. The builder will need to apply to the state for the electrical, plumbing and HAVC permits.

Adopt Resolution #183-2016 – Building Inspection Fees:

Councilwoman Weight moved that the council adopt resolution #183-2016 – building inspection fees - seconded by Councilwoman Thomas.

The mayor asked the clerk to poll the council:

Councilman Olsen	Yes
Councilman Burke	Yes
Councilwoman Thomas	Yes
Councilman Datwyler	Yes
Councilwoman Weight	Yes
Councilman Taylor	Yes

Amend Agenda:

Councilwoman Weight moved to amend the agenda to discuss contract for administrative services and contract of same at this time, seconded by Councilwoman Thomas.

The mayor called for a voice poll: All in favor none opposed.

Resolution #184-2016 – Application to submit grant Application:

Councilwoman Thomas moved to approve resolution #184-2016 – application to submit grant – seconded by Councilman Burke.

The mayor asked the clerk to poll the council:

Councilman Olsen	Yes
Councilman Burke	Yes

Councilwoman Thomas	Yes
Councilman Datwyler	Yes
Councilwoman Weight	Yes
Councilman Taylor	Yes

Request for Administrative Services:

The mayor followed this item referencing the engineer letter he and the council received in which two other companies declined to submit proposals. The sole reply the city received was from the Development Company. Mr. Miller indicated the first part of the procurement would be select based on qualifications and not on price during the first phase. After all the applicants have been ranked then you can negotiate from the companies based on the ranking based on qualifications.

Councilman Burke thought it best to move forward on the grant. Construction will take place a year from now and the grant will be just the first part of the puzzle. Councilman Taylor thought it was being shoved on us. Questions on the water study and the hurry up sign this and that is leaving him unsettled. Engineers still need to be selected.

Councilman Taylor moved to approve The Development Company as the city's grant administrator seconded by Councilwoman Weight.

The mayor asked the clerk to poll the council:

Councilman Olsen	Yes
Councilman Burke	Yes
Councilwoman Thomas	Yes
Councilman Datwyler	Yes
Councilwoman Weight	Yes
Councilman Taylor	Yes

Approval of Grant Applicant Contract:

Councilman Datwyler thought it was a moot point on the grant admn. contract being the city had only one firm submitted a proposal. The mayor said the dollar amount of the contract could be negotiated, but he advised against it. Mr. Miller indicated the contract was only to submit the application for the grant to Idaho Dept of Commerce. If the grant is awarded there will be another contract to do the administrative services involved with the grant.

Councilman Olsen moved to approve the contact of \$3,500 to the Development Company to submit the city's grant application to the Idaho Dept. of Commerce. Motion seconded by Councilwoman Thomas.

The mayor asked the clerk to poll the council:

Councilman Olsen	Yes
Councilman Burke	Yes
Councilwoman Thomas	Yes

Councilman Datwyler	Yes
Councilwoman Weight	Yes
Councilman Taylor	Yes

Request of Engineers' Firms Proposals:

The mayor indicated that the selection and ranking of the RFP for engineering services on the water grant needs to be completed prior to November 18, 2016 and as such will require a special meeting.

Councilman Taylor moved that the council hold a special meeting Thursday November 10, 2016 at 6:30pm for the ranking of the RFP engineering services for the water grant. Motion seconded by Councilman Burke.

The mayor called for a voice vote: All in favor none opposed.

Resolution Creation of LID #9:

The mayor stated the city now has the legal descriptions for the three parcels under consideration for an LID. He then asked the clerk what is the next step in the process. The clerk stated that with the legal descriptions there is still needed the frontage foot per each parcel and the cost per front foot that the property owner will be liable for. Second, the city needs to determine what portion of the construction the city is paying and what portion the property owners will be paying. The city has the total of the various phases of the construction for each section but no allocation between the city's portion and the property owners'. The clerk suggested that during the special meeting the allocation of the costs between city and property owner along with the cost per front foot could be completed prior to the November 10, 2016 meeting and have the information for the council during that meeting. And upon review, the resolution could be ready and accepted at the November 17, 2016 council meeting.

The mayor said the 3rd West and extension of Courthouse Drive will fairly straight forward. The allocation of the costs between city and property owners on Claremore Drive is more difficult because of the sewer service be installed and cutting into the road.

Redraft of beer, liquor & wine ordinance for sales on Sunday:

Councilwoman Thomas handed out a re-draft of the applicable code sections for beer, liquor and wine sales on Sunday. She wanted the council to review the draft copy prior to the next council meeting at which time she anticipates having the code amended to allow sales on Sundays in the bars.

Ordinance #2016-587 – Amending City Code for Sunday sales of beer, liquor and wine:

Councilwoman Thomas moved the council not adopt ordinance #2016-587 seconded by Councilman Taylor.

The mayor asked the clerk to poll the council:

Councilman Olsen	Yes
Councilman Burke	Yes

Councilwoman Thomas	Yes
Councilman Datwyler	Yes
Councilwoman Weight	Yes
Councilman Taylor	Yes

Approval to proceed with construction of footbridge on 5th West:

The mayor said the council had a copy of the design before them. Councilman Taylor was confused as to its location and the mayor indicated it was being proposed on 5th West and will tie into the sidewalk on the south side of the canal along 5th West.

Councilwoman Weight stated that when she brought this up, she had proposed it on 4th West because that's where the kids had been crossing. She indicated she had talked with the citizens in Pioneer Park along Caribou and along Foxhill. The people she has spoken with, they would like it on 4th West. Councilman Datwyler understood that the bridge could be tied into a bridge at a later date. Councilman Datwyler asked if it was an issue with either location. The mayor said yes, on 5th West there is no road north of the canal and on 4th West there a problem with elevation. Councilwoman Weight said that the people she has spoken that live in Pioneer Park, they did not want to walk down Caribou. And the people living on Foxhill didn't want their kids walking along Caribou to get to the park. The mayor stated that when you consider the traffic going to the schools, 5th would be best location. Councilwoman Weight suggested that she along with Councilman Burke talk to the residents along both sides to get their input. The mayor asked that without a definite location how can funds could be approved? Councilwoman Weight stated that she had proposed it to be on 4th and now it was being proposed on 5th. The bridge will work at either location according to Marvin Fielding. The mayor said the council could get opinions and decide where to place it. Councilwoman Weight wanted the discussion tabled until more information is obtained.

The mayor/council moved to allow for public comment at this time.

Public Comment:

Scott Stoker: Mr. Stoker was alarmed about this discussion on the bridge and this is the first he's heard about it. A number of residents are upset because it's also the first they have heard about it. He stated that as he mentioned earlier, the footbridge will be a doorway for a bridge. Why a footbridge, who wants the footbridge, where is this coming from? He is opposed to a bridge across the canal. Caribou will affect the home prices in Hunter Creek and Caribou was and is a mistake and they continually have to fight for this.

Councilwoman Weight stated the city was planning on putting park equipment in Pioneer Park.

Mr. Stoker noted that the residents on Caribou do not pay taxes. The council needs to listen to the public and get their input on the bridge.

Riley Robinson: Commented that he lives on 4th West and this is the first he's heard of it. He is opposed to the footbridge. He said he'd be shocked if any of his neighbors had been talked to. The footbridge is

a bridge to nowhere, it's not useful and there needs to be more public comment. He only found about it because he saw it on the agenda on their discussion on the zone change.

Council discussion:

Councilman Taylor wanted more public input and was undecided on either location at this time. Rick Lamoreaux indicated that in time a bridge will be built crossing the canal due to traffic, sanitation and emergency access; a bridge will be built.

Approval of Minutes:

Councilwoman Thomas moved to approve the minutes seconded by Councilman Datwyler.

The mayor called for a voice poll: All in favor none opposed.

Amending Agenda:

The mayor indicated the city needed to adopt the resolution for fair housing act and asked for a motion to amend the agenda to allow same.

Councilman Datwyler moved to amend the agenda to allow the reading and passage of the fair housing resolution. Motion seconded by Councilwoman Thomas.

The mayor called for a voice poll: All in favor none opposed.

The mayor then read the fair housing resolution.

Councilwoman Thomas moved that the council adopt the fair housing resolution seconded by Councilman Burke.

The mayor asked the clerk to poll the council:

Councilman Olsen	Yes
Councilman Burke	Yes
Councilwoman Thomas	Yes
Councilman Datwyler	Yes
Councilwoman Weight	Yes
Councilman Taylor	Yes

Approval of Bills:

Councilman Datwyler asked about the bill noted "grant". The police chief said it was a purchase for a camera which will be repaid after its payment.

Councilman Taylor moved to approve the bills seconded by Councilwoman Thomas.

The mayor asked the clerk to poll the council:

Councilman Olsen	Yes
Councilman Burke	Yes
Councilwoman Thomas	Yes
Councilman Datwyler	Yes
Councilwoman Weight	Yes
Councilman Taylor	Yes

Other Council Business:

Review of infractions and Misdemeanor:

Chief Tower discussed the hand out where the city needed to update the city codes on infractions and misdemeanors. He will review this with the council at a later date. The difference is that the city definition on infractions does not mirror that of the state. Close but not exact.

Councilman Taylor asked about city codes that are voided by state code. The attorney indicated the state code changes almost annually and some are voided and some are voidable. To correct the city code all of it would need to be reviewed and changed.

Park Equipment:

Councilwoman Weight indicated they are looking at adding play ground equipment on the south park and needed the measurement to determine the amount that it could placed in the park.

Festival of Trees:

Festival of Trees is coming and needed someone to monitor the trees during the public viewing.

Adjournment:

Councilman Taylor moved to adjourn seconded by Councilwoman Thomas.

The mayor called for a voice poll: All in favor none opposed.

Meeting adjourned: 10:45pm

CITY OF RIGBY


Jason Richardson, Mayor

ATTEST:


David Swager, Clerk