

City of Rigby
Council Meeting Minutes
April 17, 2014

Mayor Richardson called the meeting to order at 7:00 pm Thursday, April 17, 2014. The pledge of allegiance was given by Councilman Maloney and Councilman Taylor offered the prayer.

Mayor Richardson asked the clerk to call the roll.

Councilman Walker	Present
Councilman Maloney	Present
Councilman Sullenger	Present
Councilman Taylor	Present
Councilman Simonson	Present
Councilman Olsen	Present

Also present: Chief Hammon and Attorney Robin Dunn

Review and Approval of Engineer Contract on Railroad Ave.

Rick Lamoreaux came forward and presented a contract from Keller and Associates of Pocatello. The contract specified the contract, in the amount of \$7,600, was to design, oversee and submit the required paper work to DEQ for the installation of the water line from Highway 48 north to the last warehouse along Railroad Ave. Work is estimated to start when the warehouses are closed for the season.

Questions concerned the wording of the contract referencing lump sum. Lamoreaux will get clarification on the wording.

Councilman Simonson moved to approve the contract to Keller Engineering not to exceed \$7,600 seconded by Councilman Maloney.

The mayor asked the clerk to poll the council:

Councilman Walker	Aye
Councilman Maloney	Aye
Councilman Sullenger	Aye
Councilman Taylor	Aye
Councilman Simonson	Aye
Councilman Olsen	Aye

Re-roofing west end of City Hall

Rick Lamoreaux stated the east end of city hall had been re-roofed a number of years ago but nothing was done on the west end of the building. The west end has now deteriorated to the point where it is beginning to leak in several areas. He obtained bids from three local contractors: Shirley Roofing (\$19,290), Briggs Roofing (\$14,700) and JD Roofing (\$12,986). He recommended the council approve the bid of JD Roofing. Warranty is 15 years on material and 5 year on labor.

Questions from council concerned the difference between the high and low bid. Lamoreaux indicated the difference was in the application of the material. Shirley uses a blow on application while Briggs and JD use a roll on application. Shirley offered a 20 year warranty.

Question if JD Roofing had a public work license. Lamoreaux could not recall but will check on it.

Councilman Taylor moved to accept the bid of JD Roofing for \$12,986 contingent upon JD Roofing having a public work license seconded by Councilman Walker.

The mayor asked the clerk to poll the council:

Councilman Walker	Aye
Councilman Maloney	Aye
Councilman Sullenger	Aye
Councilman Taylor	Aye
Councilman Simonson	Aye
Councilman Olsen	Aye

City Ordinance 4.2.3 –Animals

Kimber Tower came forward to discuss code 4.2.3 and also 5.4.5. She expressed concern why the city would not allow chickens in the city. She cited the current code allowing dogs, cats and pot-bellied pigs but not chickens or rabbits. She then reviewed several other cities that do allow chickens. Mrs. Tower also commented that city residents could not have hamsters or gold fish based on the current code. She stated Rigby is a rural community. Tower read from a number of other cities ordinances that do allow chickens and some of the restrictions those cities have placed on them.

The mayor cited cities that he had researched that allow chickens. The mayor felt the restriction bars kids from doing a 4-H project for raising chickens and rabbits as project. The mayor was concerned with possible noise and smell originating with chickens. Councilman Maloney asked if surrounding cities (Shelley, St. Anthony) allows chickens. Councilman Maloney expressed concern that the chickens attracted skunks. Councilman Simonson asked questions that Mrs. Tower had read regarding Idaho Falls ordinance restricting chickens to back yards and the number allowed and banning roosters.

The mayor reviewed three options for the council: leave ordinance alone as it currently reads; repeal the current ordinance and amend the ordinance to allow chickens with restrictions; or repeal the ban on chickens and not amend the ordinances.

Chief Hammon would like more time to review the proposal and to make inquiry to other cities police departments and inquire if there has been any enforcement issue with chickens.

Mrs. Tower would like the council to repeal the current ordinance 5.4.5 - prohibiting chickens this evening and in two weeks review any amendment. She presented to the council three options that she drafted that would allow chickens.

The mayor commented the process of amending an ordinance would need to be advertised and a public hearing held to allow those citizens opposed to the change a voice in the decision process.

Councilman Simonson wanted more time to review and consider the proposal and he did not have the information that Mrs. Tower was referring to in his possession. Councilman Walker voiced concern about repealing the current ordinance without time to consider and discuss the issue.

Motion by Councilman Taylor moved to table the discussion for two weeks seconded by Councilman Simonson.

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

Lease Agreement with Fybercom Wireless:

Chris Stowell came forward representing Fybercom Wireless. He explained what Fybercom is and the wireless service they provide. Currently Fybercom serves Ammon and Lewisville. The water tower would fit into their business plan in servicing the Rigby area. Mr. Stowell explained the current lessee on the water tower, ATT, gave permission to add Fybercom to add their antenna/receivers to the tower. The space Fybercom would need would be 10 feet away from ATT receivers which given the size of the tank is not a problem.

The attorney was asked if he had reviewed the contract and if he had concerns with the contract. The attorney listed the following concerns: city to provide power, access to the grounds, liquidated damages for \$25,000 (which he strongly objected to), and waiver of jury trial (should it go to that).

Discussion on the proposed \$200 month lease. Stowell commented that Fybercom would not need a compound the size that ATT uses to house their equipment. Councilman Olsen felt the \$200 was too low of a rental amount. Stowell stated the rental fee was based on other comparable providers. If the lease got too high they may have to reconsider the lease.

Stowell stated the tower is not as high as a tower at the sugar factory. The signal would be lower and able to travel through a tree which is not available on a higher tower.

Councilman Taylor moved to table the item seconded by Councilman Sullenger.

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

Lease Agreement with Verizon

Jared White representing Verizon Wireless was present via telephone. Mr. White indicated that they would like to lease space around the water tower to house their equipment and to place antennas on the water tower. Their request is similar to the equipment and building that ATT presently has. Verizon has received a special use permit from the planning and zoning commission. Verizon copied the lease before the council using the ATT lease. He indicated the term of the lease and dollar amount of the lease coincided with the ATT lease. The mayor asked the attorney if the terms of the lease were the same as the ATT lease. The attorney responded they were not. He noted paragraph #3 where the initial term was for five (5) years and the ATT lease has approximately 18 months remaining. The attorney commented that the first term for Verizon would need to end in 18 months with renewable 5-year term leases. Mr. White wanted the first term to be 6.5 years so at the end of the first renewal the two leases (ATT and Verizon) would coincide with the same ending date. The mayor indicated the city would like the terms to be identical. White indicated Verizon would look at changing the first lease term to 18 months.

The mayor asked the attorney to highlight other areas of concern that he had with the lease.

The attorney reviewed the lease paragraph by paragraph. On page 2 under paragraph #2 – Permitted Use, he questioned the phrase where “additional space will be leased to the tenant”. The attorney noted space may not be available and the city could not guarantee that space is or would be available at a later date.

Page 3, the term of the lease was again mentioned. As for the rental amount he did not comment stating the amount of the lease was a council decision.

On page 5, tenant right to terminate - he felt the city also had a right to terminate that was not outlined in the agreement. The attorney would like to have the city the right to terminate with cause. And at the end of each of the 5 year term, both parties have the right to terminate at each other’s discretion.

Page 7- environmental- the attorney noted the structure is not free of lead paint, and therefore the city cannot guarantee that neither lead paint nor asbestos are not present because we know the tank contains lead paint.

Page 8 – Access from an open and improved road - he noted the access would be the same access point that ATT has.

On page 9 – Maintenance/Utility (b) - tenant will obtain its own power and be responsible for same. The city does not want to sub meter and feels Verizon can obtain their own meter.

Page 10-Assignment/Sublease – the attorney felt the city needed to grant approval from Verizon to assign or sublease. The attorney wanted the word “without landlord consent” changed to “with landlord consent.” Mr. White indicated they could accept that change.

On paragraph 21 – Taxes- the city is not liable for ad valorem taxes nor personal property taxes of Verizon. Verizon would be responsible for any taxes assessed on their equipment.

Paragraph 22- Sale of Property subparagraph a – the city while not likely would sell the property but the city may lease additional space on the tower and should not be restricted from doing so. There is a pending application from another company to lease space on the tower beside ATT and Verizon. The same restriction was noted in subparagraph c which needs to be modified as well. Mr. White wanted the restriction to include the wording “interfere” with Verizon signal or space where it may interfere. Mr. White noted the clerk had stated that Verizon would need permission from ATT so that their antenna and signals do not interfere with each other, which ATT gave consent.

Paragraph 24 – Miscellaneous – subparagraph n – waiver of jury trial: The attorney advised the city not give up this right. But, it was up to the city council to make the decision.

Paragraph 26 – Relocation – The responsibility of the landlord to relocate the tenant, the city does not want to pay expenses to relocate Verizon to a new site. Mr. White noted that both parties recognize the possibility that in the future the tower may be required to be taken down.

The mayor noted under paragraph #2- Permitted Use – he had concerns with the leasing additional space. The attorney noted the company could apply to lease additional space. Mr. White had no concern with the change.

In the discussion, it was agreed that the modifications would be red lined and would have to have Verizon review and approve the changes. Mr. White noted he is a contractor with Verizon and did not have authority to sign off on any of the proposed changes. He would take the proposed changes back to Verizon for their comment.

Council discussed the items listed above. Paragraph #22 – delete provision if the property is sold and any cost to the city. Paragraph #26 – Should be stricken in its entirety.

Councilman Simonson moved to authorize the attorney to make changes to the lease agreement as outlined seconded by Councilman Maloney.

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

Review and Approval of Bills

The clerk added the library sales tax remittance that came in after the bill list was printed. The amount due is \$110.44. Councilman Simonson questioned the bill on one of the police cars for \$1,600.

Councilman Maloney moved to approve the bills seconded by Councilman Simonson.

The mayor asked the clerk to poll the council:

Councilman Walker	Aye
Councilman Maloney	Aye
Councilman Sullenger	Aye
Councilman Taylor	Aye
Councilman Simonson	Aye
Councilman Olsen	Aye

Approval of Minutes:

The council reviewed the minutes of April 3, 2014. Councilman Taylor noted that when he listed the options for 1st North he noted option #2 had no sidewalks on the south side.

Councilman Taylor moved to approve the minutes as amended seconded by Councilman Olsen.

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

Other Council Business:

- The mayor commented on the presentation that he and the Urban Renewal did before the governor committee on awarding of the community development block grant. He indicated the presentation went well and they will know towards the end of May if the Urban Renewal would be awarded the block grant.
- Councilman Maloney had received a phone call from Jay Clark and wanted the police to begin sending letters to the property owners regarding the weed control ordinance.
- Councilman Walker commented that the city needed to begin updating the city ordinances.

Public Comment:

Dina Johnson: Supported the repealing of the ordinance concerning the chickens and was disappointed that the topic was put off for two weeks. Feels those students that live in the city will not be able to participate in the 4-H program. Cited cities that allow goats and feel the citizens of Rigby are responsible enough to handle chickens. She showed where the federal government supported the Victory Garden years ago to encourage citizens to be self-sufficient.

Terry Cardwell: Had talked with DEQ concerning the dust being blown around the area due to the dirt road now on 1st North. He mentioned the issue with the dust is causing problems with a number of citizens living along 1st North. Wants the road fixed back to the way it was.

Barry Lewis: Commented on the discussion regarding the LID along 1st North in moving light poles, fire hydrants and other items that the expense is increasing beyond the improvement that the citizens wanted for the road. He reminded the council to keep the costs down on 1st North. Also, noted the number of chickens could be related to the size of property and the number of chickens allowed.

Cliff Weight: Would like the ability to raise chickens. Feels raising chickens is a way of educating his son and giving him an opportunity to raise his own funds. Thinks the raising of chickens could add to food storage. He supports the proposal to limit the number of chickens to the size of a lot. He lives on a fairly large lot bordering the canal. Feels it's a matter of good stewardship to allow chickens.

Deanna Dinsdale: Brought up the H&S Development agreement and noted that Judge Moss did not rule on the case but did dismiss the case between the city, former mayor John Anderson and H&S with prejudice. Showed a picture where 5th West narrowed to 38 feet but no parking would be allowed along this section. Said 1st North is not a collector street as noted in the agreement. She indicated that roads in the H&S Development were only 42 foot wide: Sundance and Hunter Cr. Drive. She stated there are no sidewalks on 4th West or on the north end of 5th West.

Darwin Dinsdale: Recapped an article contained in the local paper involving the suit with H&S and the city. Indicated the agreement exempts H&S from future road fees that at the time were not in the city limits. He noted that 1st North was never surveyed until this year. He questioned the legality of entering into an agreement on property that wasn't owned by the city. The city should challenge the agreement made with H&S Development. He doesn't want the city to use the LID process to delay making repairs on the road. The city owes the residents the road the city tore up.

Chris Campbell: Mr. Campbell indicted he was a candidate for county commissioner. He gave a brief outline of his life, work and family life. He would like to see better road and bridges. Support checks and balances. And third wants fiscal responsibility and more transparency in the county.

Lisa Swanson: Supported the comment made by Councilman Walker about cleaning up the ordinances. She supports allowing chickens. She lives part in the city and part out of the city. For the area outside of the city they do have chickens. She has not noticed any increase in smell, noise or skunks or other animals. She cited where the subdivision have restrictive

convents that govern the subdivision and those convents would override the city code relating to dogs and other animals. She supports allowing chickens in the city.

Adjournment:

Councilman Simonson moved to adjourn seconded by Councilman Sullenger.

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

Meeting adjourned at: 9:24pm.

CITY OF RIGBY



Jason Richardson, Mayor

ATTEST:



David Swager, Clerk