

City of Rigby
Council Meeting Minutes
December 18, 2014

Mayor Richardson called the meeting to order at 7:00 pm Thursday, December 18, 2014. The pledge of allegiance was given by Jerry Simonson and Patrick Sullenger offered the prayer.

The Mayor asked the clerk to call the roll.

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

Also present: Robin Dunn and Rick Lamoreaux

Renewal of Intermountain Gas Franchise – Ord. #2015-576:

Rick Moore representing Intermountain Gas came forward and reviewed with the council the new franchise ordinance. He noted there were four changes from the 1995 agreement: Warranty for road has been increased from one year to three year; one stop line locator has been added; section #7 as it relates to future changes in the fee structure, the city will receive increases if and when they are approved; and increase in liability and tort liability. The franchise is for 3% of sales and is for 20 years.

Councilman Maloney moved to publish and hold a public hearing for the ordinance #2015-576 seconded by Councilman Walker.

The Mayor asked the clerk to poll the council.

Councilman Taylor	Yes
Councilman Maloney	Yes
Councilman Sullenger	Yes
Councilman Simonson	Yes
Councilman Walker	Yes

Mayor next mentioned that the published agenda needed to be amended to include two items: a) Christmas gift certificates for city employees and, b) contract on the recharge of the aquifer.

Councilman Taylor moved to amend the agenda seconded by Councilman Maloney.

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

Alcohol Sales on Sunday:

Douglas Murray, owner of the Top Cat Bar came forward and addressed the council to allow alcohol sales on Sundays. He reviewed other cities around Rigby which allow alcohol sales on Sundays. He noted the only city that does not allow sales on Sunday is Rexburg. He listed Roberts, Ririe, Menan, St. Anthony, Idaho Falls and Ammon. He reviewed the Community Review which stated in the vision statement where the city would like to be an inclusive community and not a bedroom community dependent on Idaho Falls or Rexburg. He noted that by being closed on Sundays, many patrons go to other cities which affect his potential income and growth in the city. By being closed he is limiting wages that could be paid employees. He pays a monthly utility fee but is limited in not having full access four days a month amount to \$157 year.

The mayor felt standard that the city currently has existed prior to Mr. Murray acquiring the business. The restriction of being closed on Sunday was in the law so it wasn't something that the city took away from Mr. Murray. He was concerned that the standard may change but does the community want to have it changed.

Councilman Taylor asked if the only change that Mr. Murray would like to change would be to allow sales on Sunday. Mr. Murray stated yes. Councilman Taylor asked the attorney if there would be an increase in law enforcement by allowing sales on Sunday. The attorney stated yes there will be increase law enforcement by having one additional day when bars are open.

Council discussed having public input on the proposed change, if it was to occur. Public comment during a council meeting was discussed versus holding a formal public hearing. Legal counsel advised the council on the wording of the change and how to hold a public hearing.

Councilman Taylor moved to consider striking the word Sunday from the ordinance which prohibits the sale of alcohol on Sunday and to publish notice of proposed change in the ordinance with a public hearing seconded Councilman Simonson.

The Mayor asked the clerk to poll the council.

Councilman Taylor	Yes
Councilman Maloney	No
Councilman Sullenger	Yes
Councilman Simonson	Yes
Councilman Walker	Yes

Councilman Taylor moved to hold the public hearing for the proposed change in alcohol sales January 8, 2015 seconded by Councilman Sullenger.

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

Resolution #176-2014 – Fixing time and date for public hearing on LID #8 assessment roll:

The mayor briefly explained the reason for the resolution which is needed prior to setting the final assessment for the LID. Councilman Walker in looking over the proposed repayment schedule asked if a 20 year option could be included with the 10, 12 and 15 years. The mayor explained the funding would likely be done internally. The comment was made that all the patrons would need to be on the same payment schedule be it 10, 12, 15 or 20 years. Financing the LID assessment internally prepayment could be done. If the council were to seek outside funding via a bond issue for the project, prepayment could be done subject to a 2% penalty since the city would need to stay on the bond schedule as sold to the bonding company.

The mayor felt that by financing the project internally the rate charged to the public could be cheaper than outside funding would be. The council had concern with what interest rates would be in 20 years from now. The mayor felt that if a longer term was used, the interest rate should be higher to compensate for uncertainty.

Councilman Taylor moved to authorize Resolution #176-2014 be approved and publish calling for a public hearing January 8, 2015. The motion was seconded by Councilman Sullenger.

The Mayor asked the clerk to poll the council.

Councilman Taylor	Yes
Councilman Maloney	Yes

Councilman Sullenger	Yes
Councilman Simonson	Yes
Councilman Walker	Yes

Review of 2014 Comprehensive Plan:

Jeff Patlovich who is the consultant hired by the city to assist the city with updating the city's comp plan. He reviewed the work done by the planning and zoning commission, the public hearings and the changes that occurred from the 2006 to the current plan. He noted the comp plan is not a zoning plan but a plan for land use and economic development. He reviewed the areas that changed: i.e. area around the old sugar plant, the proposed interchange along Highway 20 and 200 North, and the expanded zone north and south of the airport.

The mayor stated the comp plan as stated by Jeff is not a zoning map but the city uses the comp plan when it looks at zones to see if the setting of zones within the city is in compliance with the comp plan. The option of a proposed "use" gives the option to the landowner for future development or use. An application for a land use must be in conformity with the comp plan. This is not to say that the comp plan cannot be amended as changes occur in proposed land use.

The mayor suggested having a work session to review the plan prior to any public hearing and formal adoption of the plan.

Councilman Walker moved to table the comp plan until a later date seconded by Councilman Simonson.

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

Approval of Fireworks Permit:

Kings variety store has made application for a firework permit to sell fireworks for New Year's Day.

Councilman Taylor moved to approve the application seconded by Councilman Maloney.

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

Review and Purchase Garbage Truck:

Rick Lamoreaux presented before the council the quote received on the proposed purchase of a new garbage truck. The quote that he presented before the council was a bid from Solid Waste System for a purchase of a new Labrie garbage loader/hauler on a 2016 Peterbilt chassis. The bid which was piggybacked on Chubbuck and Ammon bids totals \$244,587 which included a trade in allowance of \$17,700 on the 2001 Heil truck. The bid being piggybacked is good through December 31, 2014. Lamoreaux noted the sanitation fund had budgeted \$270,000 for the new truck.

Councilman Maloney moved to authorize the purchase of the Labrie truck seconded by Councilman Simonson.

The Mayor asked the clerk to poll the council.

Councilman Taylor	Yes
Councilman Maloney	Yes
Councilman Sullenger	Yes
Councilman Simonson	Yes
Councilman Walker	Yes

Christmas Gift Certificates for Employees:

The mayor explained the city has in the past given the employees gift certificates in the amount of \$25 to the city employees. He would like to continue with the gift certificates. Councilman Taylor inquired if the certificates were to include board members. The clerk indicated he had not included board members but could do so.

Councilman Sullenger moved to approve Christmas certificates in the amount of \$25 for all city employees and board members excluding council members seconded by Councilman Taylor.

The Mayor asked the clerk to poll the council.

Councilman Taylor	Yes
Councilman Maloney	Yes
Councilman Sullenger	Yes
Councilman Simonson	Yes
Councilman Walker	Yes

Aquifer Recharge Contract:

The mayor stated this topic was discussed at the last council meeting. Roger Warner, who is not present, discussed the water situation in east Idaho at the last council meeting. The contract before the council this evening had the city participating for 300 acre foot at \$10 per acre foot. The recharge contract is being discussed as a way for the city to transfer surface water rights to aquifer rights in the event the city had a curtailment of water in the future. The recharge contract would allow the city to build credits converted from surface water to aquifer water that could be used during water shortages. The council was concerned with being on the first tier and thereby having first right (first in time first in right) to draw from the banked aquifer water. The mayor stated that looking forward 20 year forward who can predict what the water needs of the city will be. He's inclined to move forward. The city's concern with water curtailment is not so much with what the homeowner uses for domestic use but what would the impact be on industrial and commercial uses and future development.

The contact noted that the city needed to complete and execute the contract by December 22, 2014. The mayor called Roger Warner on speaker phone. Mr. Warner reviewed with the council the contract and answered a number of questions that the attorney had regarding the contract. Mr. Warner deferred most of the legal argument raised by the attorney to the Recharge Development Corp's (RDC) attorney, Robert Harris.

Mr. Warner indicated the December 22 date was used as a starting point and if the council decided to discuss the contract at a later date he did not see an issue with it being extended to allow for more discussion and clarification. He felt the city would still be on the first tier in priority of rights if the deadline was extended to January 15, 2015.

After lengthy discussion between the council and Mr. Warner, it was decided that the city attorney would review the contract, red line specific items of concerns and have the RDC's attorney, Mr. Harris, address those concerns.

Councilman Taylor moved to table further discussion seconded by Councilman Walker.

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

Assignment of Water Revenue Fund Balance:

The mayor reviewed with the council a prior water study which identified the need for the city to have a second storage tank and/or well to meet future needs of the city. The proposed ordinance is to restrict a

second \$300,000 of the water revenue fund surplus fund balance. Prior restrictions in 2013 earmarked \$300,000 for future storage/well making a total of \$600,000 to date. The mayor stated this was not spending the funds but earmarking it specifically for a storage/well facility. Councilman Simonson reviewed the issues from the water study and the need for future storage needs. A new storage tank would cost around \$1 million plus. A new permit is hard to receive from the Idaho Dept. of Water Resource. The ordinance permanently holds such funds as restricted/assigned for the specific project until such time as the council either proceeds with the project or changes the need and shifts such funds to another project. Concern was expressed about “tying up funds.” The mayor explained it was very similar to what happened with the sewer project. The need for the wastewater treatment plant arose and there were no funds available to fund the project and the city had to incur an enormous debt to build the plant. The restriction of funds is a way of avoiding incurring more debt in the future when the need arises. The city is going to have a water problem. Are we going to plan ahead and save or do we put another debt on the city? In case of an emergency with the water system there is still \$400,000 available to meet the emergency.

Councilman Simonson moved to publish ordinance #2015-577 and hold a public hearing on January 8, 2015 seconded by Councilman Maloney.

The Mayor asked the clerk to poll the council.

Councilman Taylor	Yes
Councilman Maloney	Yes
Councilman Sullenger	Yes
Councilman Simonson	Yes
Councilman Walker	Yes

Approval of Bills:

The clerk presented the bill list to the council and wanted to add the sales tax payable for \$155.63 which is due the 20th of the month. Councilman Walker inquired about the payment to DePatco of its retainage. He felt it was going to be held until next spring. Rick Lamoreaux said the project was complete and the performance warranty is in effect until spring so the retainage needed to be released.

Councilman Taylor moved to approve the bills including the sales tax seconded by Councilman Walker.

The Mayor asked the clerk to poll the council.

Councilman Taylor	Yes
Councilman Maloney	Yes
Councilman Sullenger	Yes
Councilman Simonson	Yes
Councilman Walker	Yes

Approval of Minutes:

Councilman Walker made one correction regarding his statement of the council not approving requests for funds coming before the council. Councilman Walker moved to approve the minutes as corrected seconded by Councilman Sullenger.

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

Other Council Business:

- Personnel Policy: The mayor indicated he was passing over this topic.

- Audit: Reported that he had met with the auditor and discussed the changes in accounting procedures with the park/rodeo and airport board. Felt the audit report would be available in February.

Public Comment:

None

Executive Session:

Councilman Simonson moved that the council enter executive session per Idaho Code 67-2345(f): to communicate with legal counsel regarding pending litigation.

The Mayor asked the clerk to poll the council.

Councilman Taylor	Yes
Councilman Maloney	Yes
Councilman Sullenger	Yes
Councilman Simonson	Yes
Councilman Walker	Yes

Council enters executive session at 9:30pm.

Council exits executive session at 9:38pm.

Open Session:

The mayor opened the session asking if there was any comment. Councilman Walker asked what options the city had regarding the suit with the school district. The mayor listed the options available for the city:

1. Respond to the suit and release all interest in the property in question.
2. Continue with the suit involving the restriction placed on the property by the Call family.
3. Assign whatever interest the city has or may have in the property to the Call family.
4. Proceed with the action cited in the suit under Count #3 involving the reversal of the city owned property with the original school property established in 1916.

The stated the main disagreement is between the Call family and the school district. The option to swap the property had been discarded via an email from the school district's attorney and the city attorney. So Count #3 is basically off the table.

Councilman Simonson wanted to turn any rights that the city may or does have in the property to the Call family. The attorney responded that the procedure would be to go through the court and assign any rights that the city has in the property to the Call heirs. He would also notify the local heirs that he knows of.

Councilman Taylor moved to direct the city attorney to assign any rights the city has or may have in the school property to the Call family seconded Councilman Simonson.

The Mayor asked the clerk to poll the council.

Councilman Taylor	Yes
Councilman Maloney	Yes
Councilman Sullenger	Yes
Councilman Simonson	Yes
Councilman Walker	Yes

Adjournment:

Councilman Simonson moved to adjourn seconded by Councilman Taylor seconded.

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

Meeting adjourned 9:45pm.

City of Rigby


Jason Richardson, Mayor

ATTEST:


David Swager, Clerk