

City of Rigby
Council Meeting Minutes
June 4, 2014

Mayor Richardson called the meeting to order at 7:00 pm Wednesday, June 4, 2014. The pledge of allegiance was given by Steve Cook and Councilman Maloney offered the prayer.

Mayor Richardson asked the clerk to call the roll.

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

Also present: Chief Hammon and Attorney Dunn

Rocky Mountain Power Foundation:

The representative from Rocky Mountain Power was not in attendance and the mayor asked if the item could be moved to a later time in the agenda.

Councilman Simonson moved to amend the agenda for the RMP to a later time as deemed appropriate seconded by Councilman Maloney.

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

Discussion of Internal Control Procedures – Park/Rodeo Committee:

Sheri Poulsen, auditor for the city, came forward and discussed the findings in the audit report regarding the park/rodeo committee. She began with a brief history of how the Park/Rodeo Committee was in prior times operated as the Jefferson Park/Rodeo, which was a separate organization. In 2012 the city by ordinance brought the Jefferson Park/Rodeo board into the city as a department of the city. The Rigby Park/Rodeo Committee took over the cash and other assets of the Jefferson Park/Rodeo board and continued operating the rodeo grounds with its own board. At year end, the financial activities of the Rigby Park/Rodeo board were brought into the accounting records by audit entry. Poulsen reviewed the financial transactions and provided the city with the entry for inclusion into the city records. She also noted in the 2012 audit that the city did not have “control” over the rodeo expenditures during any time in the year. By this she noted the city should review, have access and knowledge of the transactions. This was noted as an audit deficiency for lack of oversight and financial control. This past year she discovered that they were not given information on two accounts that had \$26,000. These are examples of weaknesses in the internal controls. The council has ultimate responsibility. The information should be reviewed by the council on a monthly basis. The council has ultimate responsibility on expenditures going out of the fund. The board can assist the council with the operations but again the final review needs to be reviewed by the council. The same procedure where the council reviews the bills the bills should also include those of the rodeo committee.

After discussion, Poulsen stated she felt the operations of the park/rodeo should be run through the accounting records of the city. That includes all receipts and disbursements. She noted that with the prior recreation fund all bills and receipts were run through the Caselle accounting records and the recreation fund had its own board to assist in the operations of the center.

Steve Cook came forward at the request of the mayor to answer questions. One of Mr. Cook's concerns was that there are cases where the committee could not wait two weeks for checks. He gave the example of the rodeo producer being paid on the night of the rodeo and the payout to the participants on the evening of the rodeo. Poulsen stated the policy could be such that there are times when other procedures could be approved to cover instances cited but normal expenditures should follow the city normal procedures in paying bills. A compromise could be reached where the committee can have a cash account for the payouts on the evening of the rodeo but the payouts are included and provided to the city council. The review needs to be ongoing and done more than once a year.

The mayor recapped two issues: compliance with the audit and not to discourage freedom of the board.

Councilman Taylor suggested a policy could be written by the rodeo treasurer, chair, and city clerk to outline procedures on the park/rodeo operations. The Mayor also would like the Rick involved being his years of working with the city.

Rocky Mountain Power Foundation:

Tim Solomon from Rocky Mountain Power came forward and informed the council that the clerk had submitted a grant application to the Rocky Mountain Power Foundation for financial assistance on a chain link fence along the west end of the rodeo race track. He was here this evening to present to the city a check in the amount of \$5,000 in support of that effort.

Mr. Solomon also commented that in addition to the \$5,000 check Rocky Mountain Power contributed \$1,000 towards the cost of the community review.

Jefferson County – Reconsideration of Zone change:

Commissioner Farnsworth wanted to address the council on the zone change that the city granted at last council. In addition to the acceptance of the zone change from R-1 to commercial the city placed condition on the county which would require them to construct a privacy fence around three sides of the property. (He handed out pictures of the three sides.) He stated the county meets the requirement of the city on property that buffers R-1 and commercial. The county has a 6 foot privacy fence on the north side of the property. He would like the council to reconsider the requirement of the fencing on the other three sides. He felt the fence on the three sides would not benefit the homes on the north and would be a needless expense to the county.

Naysha Foster, county planning zoning, recapped the city code which only requires a fence along the area buffering R-1 and commercial. The blowing of cinders would be better controlled with a tarp than with a fence. The three sides are outside the city limits and are zoned county residential.

Councilman Simonson suggested the topic be referred back to planning and zoning and he had concern with the development in the future of homes along the south side. Commissioner Farnsworth responded that in the future a privacy fence could be constructed when development occurs. Mrs. Foster, commented that the planning zoning board is only a recommendation board and for them to remove the condition and then resubmit it to the council would be redundant.

The attorney handed out a response from the Association of Idaho Cities attorney to the question: Can a zone change be granted with conditions. In the response to the quarry, conditions can be included in a development agreement but a change from one zone to another is done without special conditions not stated in the specific zone ordinance or by specific ordinance.

The mayor indicated that given the handout, if the planning and zoning made a mistake, and the conditions made could not be placed on the county then the council is still keeping with their recommendation.

Councilman Taylor moved to approve the zone change and remove the requirement of the privacy fence be constructed and make that requirement as a recommendation only seconded by Councilman Sullenger.

Mayor Richardson asked the clerk to poll the council.

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

Discussion on Weed Ordinance:

The mayor summarized the events that occurred last year when the council amended the weed ordinance. He recapped the instance that occurred last year where the weeds became a concern to a landowner. From the time he started his complaint, it took the city almost a month to get the weeds controlled. He made the suggestion that the time to mail out notices be moved earlier in the year, to the fourth Monday in May. The letters were mailed out in May and since then the mayor has received numerous complaints from various property owners that the weeds had not grown enough to mow. The property owners felt the cost of mowing is costly and prohibited.

The compliance officer came forward and informed the council she had sent out the letters on May 6 and the weeds were about an inch or two inches in height at that time. She stated the weed that Mr. Clark was complaining about last year, she could not find that particular weed on the ditch bank. It was suggested that instead of sending out a 10-day letter by the fourth Monday a flyer that reminds the property owners of the need to control weed would be preferred. She does not think a letter need be sent in May but could be needed in June. When questioned about the number of property she mentioned the R&S Peterson property and the Cedar Meadows property.

The mayor asked the compliance officer why the letters were mailed May 6 instead of what the ordinance said by the fourth Monday in May, almost three weeks earlier than required. She responded that Mr. Clark was requesting that the letters be sent out early.

Councilman Taylor stated that because a concerned citizen requested that the letters be sent out early she did as he requested. She said yes.

Councilman Simonson mentioned that he had reviewed the Idaho Falls ordinance and Idaho Falls refers to ten inch in height then the weeds will be mowed.

The mayor asked the attorney if he had any comment. The attorney said he saw two issues: letters when "deemed necessary" and set a height and change the wording from mowing to "abate" because sometime spraying is more effective than mowing.

Chief Hammon mentioned that the first letter should be a courtesy letter prior to a 10-day letter.

The mayor concluded the session.

Reading of Ordinance 2014-569:

Councilman Taylor dispensed with the reading of the ordinance seconded by Councilman Walker.

The mayor asked for voice poll: All in favor none opposed. The mayor stated the ordinance had been read the required number of readings.

Discussion on Street Improvement – West 1st North:

The mayor stated the prior council had begun discussion with the West 1st North improvements but when the issue of the quiet title arose further discussion ceased.

Councilman Taylor asked if there were no LID could the city improve the streets. The mayor said yes because the right of ways has been established and the city could proceed with improvements. The mayor recapped the prior history of LID in the city and indicated the prior seven LID all had city/property owners participation in the improvements.

Councilman Taylor asked if the LID were not done and the city wanted to improve the road the entire cost of the improvement would come from the general fund. When asked what the surplus in the general fund was, the clerk indicated to his recollection the surplus is around \$750,000. However, he was going to make the recommendation to the council that the surplus in the general fund be transferred to the capital improvement fund in 2015 to fund the 5-year capital improvement projects.

He also stated that the sewer construction fund had received a grant from USDA of \$1.2 million that had previously been used as matching funds. The balance of the \$1.2 million around \$1.1 million is still in the sewer construction fund and is available for use.

Councilman Simonson felt the precedent had been established by the funding of the seven prior LID. Councilman Olsen stated he wanted 1st North completed as soon as possible. Councilman Taylor indicated the city could use the general fund surplus but then the funds would not be available in the future if the need arose. Councilman Walker also felt precedent should be a consideration in the decision process.

Councilman Maloney stated his concern was the financial burden that the property owners would bear. He was involved when the city approved the city wide LID and stated it was a burden but overall it was a good project.

Councilman Walker wanted to know if the road could be just paved and such paving would not be considered an “improvement”. The ordinance states the road must be brought to city standards. In his reading a patching of a section of road with new asphalt has been deemed an improvement by compliance with ADA. He felt the road could be completed this year as an LID project. The mayor felt that this council has been put into a legal situation where paving only is not an option.

Councilman Simonson wanted the consideration of a LID kept on the table as an option.

Councilman Olsen commented what is the time period needed for an LID. The mayor said that he had been in conference with Keller’s and based on Keller’s estimate the city could have a bid opening in mid-August. He also noted that if the council elected not to go with an LID the process could be shortened four to six weeks. The mayor felt the option of having this completed year is feasible.

The mayor felt the city had two options: fund the entire project out of city funds or cost share between city and property owners.

Councilman Simonson was not going to support the city funding the entire cost of the project. The city has been in a position with zero surplus and he is not favoring reducing existing surplus.

The mayor then said the next order of business would be for the consideration of creating the intent to create a LID district. The mayor stated the intent to create does not create a LID district.

Councilman Simonson moved to proceed with the intent to create a LID district and approve Resolution 175-214 seconded by Councilman Maloney.

Mayor Richardson asked the clerk to poll the council.

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

The mayor asked the attorney to explain the process with the passage of resolution 175-2014. The attorney said the council needs to approve the amount to be cost shared and set a date for public hearing. After the public hearing if the council were to proceed, the next step would be to create an ordinance creating the LID district, calling for bids and holding a public hearing.

Marvin Fielding of Keller's handed the council a tentative schedule of dates when the LID process needs to be completed from this evening to awarding of bids.

Marvin Fielding, with Keller & Associates, came forward. The engineer's estimate for the street improvement total \$651,741. He presented the council three different cost sharing proposals:

- 59.6% cost to property owners - \$388,520. This includes each property paying for 21.5 feet of asphalt, curb/gutter and their driveway approach.
- 30.3% cost to property owners - \$197,633. This includes each property paying for 5 feet of asphalt, curb/gutter and their driveway approach.
- 21.4% cost to property owners - \$139,788. This includes each property paying curb/gutter and their driveway approach.

(Copies attached)

The mayor asked how the prices were arrived at. Fielding indicated the asphalt/concrete is based on square yards and then broken to linear foot.

Councilman Taylor calculated that if the assessment is paid over a 20 year period the high percentage is \$24 per month average. He asked about the cost of sidewalks. Fielding said the city is paying the cost of any sidewalks. The mayor referred to the summary total cost of the project and added tree removal, ADA ramps, traffic control and landscaping.

Council enter into general discussion: Source of funds (general fund \$750,000 & sewer construction fund \$1.1 million); improvements still needed in the treatment plant (cost of the filter system cost \$800,000); what the technology would be in 5 to 8 years from now for the treatment plant; remediation of the road if the road is not completed this year; concern over the timing of obtaining bids to start date and when asphalt can be laid; what historically has Keller's

estimates been to actual; the effectiveness that the sewer collection system has been in stopping water infiltration; who initiated the proposal.

Councilman Simonson, Walker and Sullenger felt the proposal with 30% cost to property owners was reasonable. 60% was out of the question and 20% is not fair to other city residents.

Councilman Maloney moved to table further discussion and allow public comment at this time seconded by Councilman Taylor.

The mayor asked for voice poll: Five in favor, Councilman Simonson voiced no.

Public Comment:

Barry Lewis: Lewis briefly summarized the history of 1st North and the H&S development. 1st North issues with the road began with the sewer line. Any work on the road to correct the sewer should be considered as a repair and not as an improvement as specified in the H&S agreement. He also asked if the grader work on the road to remove the washboard is that a repair or improvement?

Deanna Dinsdale: Contending the developers are demanding a 48 foot road while their subdivision is only 42 foot. Sidewalks on 1st North do not connect to 4th West which do not have sidewalks. Ordinances are living documents, and they can be changed. During the quiet title, the discussion was on a 42 foot road not a 48 foot road. A number of homes on 1st North are for sale or in foreclosure. What is the benefit to the city if 1st North is improved?

Rose Berzel: Feels the assessment is unjustified and without the consent of the property owners. Will be unable to incur more debt.

Terry Cardwell: Concerned that any assessment regardless of the dollar amount will put the owners over the edge. The road is a dead end road. Sidewalks will need to be plowed by the city, is the city ready to do that? Sidewalks are not the responsibility of the property owners.

Darwin Dinsdale: This LID will be the highest cost to the property owner in the history of the city. Showed a printed out showing Dunn having interest in the property along 1st North. Contends Dunn has a conflict of interest. Also noted the meeting in Dunn's office had been recorded and that Dunn had the authority to settle the quiet title. "You didn't know it was recorded did you Robin?" Asked why did the city council change the agreement from what had been negotiated? The H&S agreement was written on property not owned by the city or the developer. The agreement should be challenged or ignored.

Victor Gentle: Concerned that the 4 spruce trees he has on his property will be removed. He is opposed to the curb/gutter with the result having cars parked on the street. He sees no benefit of having sidewalks. Only beneficial use will be future development near the church.

Kathy Lalalde: Her property has been established for years and see no reason to change. The road will be a speed zone. The proposal will be too wide. Improve the road but not at 48 feet wide.

Rick Lamoreaux: Commented that the road being graded is not an improvement and is no different than plowing snow.

The Mayor closed public comment period.

Discussion on Cost sharing of 1st North:

Councilman Taylor asked when the public hearing would be. Mayor responded the earliest would be either June 25, 26, 27 according to Keller's guideline.

Councilman Taylor favored the 30% cost share, in agreement with Councilman Simonson. City's share would be \$450,000, property owner paying \$197,000.

Councilman Taylor moved the public hearing set for June 25, 2014 that the city's share of the project is \$454,108 of the project cost of \$651,741 Councilman Walker seconded the motion.

Councilman Olsen questioned if other citizens could attend the hearing not just those who will be receiving the notice. Councilman Taylor indicated the hearing would be open and notice posted on the web page and legal section of the paper.

Mayor Richardson asked the clerk to poll the council.

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

Nomination to planning zoning board:

The mayor indicated there was an open seat on the planning and zoning board and that Charla Finlayson has agreed to be nominated to fill that vacancy. She lives on the corner of 3rd West and 1st North.

Councilman Simonson moved to appoint Charla Finlayson to the planning and zoning board seconded by Councilman Olsen.

Mayor Richardson asked the clerk to poll the council.

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

Other Council Business:

- Jefferson Arts and Recreation Council: Has requested to be placed on the next council agenda.
- Community Review: The mayor said tomorrow evening would be the closing for the community review and encouraged council to attend.
- Capital for a Day: Gov. Otter will host the Capital for a Day will be held in Rigby Senior Center Wednesday, June 25 from 9:00am to 3:00pm. If anyone had hot button topics let the city know so the information could be forwarded to the governor office.
- The mayor will be out of town June 10 through June 29, 2014.
- Public hearing – June 25: Will only be for the public comment.
- Councilman Walker concerned about waiting 30 days after the public hearing until the city solicits bids. Concern over why a road can't just be re-laid. The Mayor stated the

laying of new asphalt is considered improvement per an article he read over compliance with ADA. The mayor indicated that if the city were to just pave the section torn up, he felt the city would be in litigation. And a judge could hold that the road needed to be improved and we wind up tearing up the asphalt just laid. City will verify the reference to the 30-day wait after the public hearing before the ordinance creating the LID district could be passed.

Review of Bills:

The clerk noted one bill had arrived late: Weed Seminar in the amount of \$35.00 needed to be added to the listing.

Councilman Taylor moved to approve payment of the bills including the \$35 weed seminar seconded by Councilman Simonson.

Mayor Richardson asked the clerk to poll the council.

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

Approval of Minutes:

Councilman Simonson moved to approve the minutes of May 15, 2014 seconded by Councilman Walker.

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

Adjournment:

Councilman Simonson moved to adjourn seconded by Councilman Sullenger.

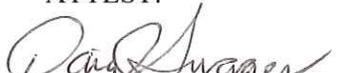
The mayor asked for voice poll: All in favor none opposed.

Meeting adjourned 10:05pm.

CITY OF RIGBY


Michael Maloney, Council President

ATTEST:


David Swager, Clerk