

City of Rigby
Council Meeting Minutes
May 15, 2014

Mayor Richardson called the meeting to order at 7:00 pm Thursday, May 15, 2014. The pledge of allegiance was given by Naysha Foster and Councilman Sullenger offered the prayer.

Mayor Richardson asked the clerk to call the roll.

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

Also present: Chief Hammon and Attorney Dunn

Public Hearing: Zone Change – Jefferson County:

Naysha Foster presented the county request for a zone change. She indicated the use of the property was not consistent with the city's comp plan and the property when it was annexed should have been grandfathered in as commercial and not residential. The county purchased the property in 1968 and has used the property as the road and bridge shop since then. She noted the planning and zoning commission did hold a public hearing on April 10, on the issue and recommended that the parcel be zoned as commercial with a condition that a six foot privacy fence be constructed around the property. Testimony was presented about the concern of the adjoining property owners with cinders blowing across the property. The county commission concluded a fence would not eliminate the problem but trapping of the cinders pile would be a more effective method to control blowing cinders.

Councilman Simonson asked if there was an existing fence around the property. Ms. Foster stated on the north side of the property adjacent to the homes, there is a privacy fence on the north side and the other three sides there is a wire/chain linked fence. She stated the privacy fence would not stop the blowing of the cinders from the other three sides. The tarps would be of industrial type which control the blowing but also allow the wind to move through them.

Councilman Taylor asked if the attorney had any concerns with the zone change. The attorney responded that the p/z commission questioned the area as being light industrial versus commercial. He commented the north side did have a privacy fence. The concern expressed was the blowing of cinders. On the east and south side the use is pasture. The frontage on the west side has a chain link fence.

The Mayor expressed concern with the tarp and the ability of enforcement versus a fence. Ms. Foster responding to the mayor said the road and bridge is and has looked at the tarp. The county is willing to be a good neighbor and anyone can see the tarp.

Councilman Maloney asked why the fence, is it in the code? Ms. Foster responded that there needs to be a buffer between residential and commercial. The concern expressed by the neighbor was the blowing dust from the cinder pile.

Public Testimony: None

Council discussion: Councilman Simonson reviewed the comments contained in the planning zoning minutes where all six members expressed concern that the properties have a fence surrounding the property.

Councilman Simonson moved to accept the recommendation to the zone change and have the property enclosed with a privacy fence along all four sides of the property. Motion seconded by Councilman Sullenger.

Mayor Richardson asked the clerk to poll the council.

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

Public Hearing: Amending City Code to allow for eight domestic hens:

The Mayor asked the chief to bring forward the sign in sheets of those residents wishing to speak regarding the proposed change to the city code.

Speaking in Favor:

Lisa Swanson – 210 West 4th North:

She also brought with her two letters that neighbors would like have read into the record. The mayor indicated he would allow them to be read into the record at a later time.

She is in favor of the change and has and is raising chickens. Raising chickens is becoming acceptable in other cities. The owner wants to have control over the quality of food they're eating. She has contacted her neighbors and none of the neighbors have expressed concern with her chickens. There is no noise, smell nor do they bring in other animals in the neighborhood. The citizens should have the freedom of choice and control over the food they eat.

Jennifer McCoullough- 117 West 3rd North:

She has visited the Swanson chicken coop. She noted no smell until she was completely inside the coop and then it was the dust but not the smell. She compared city noise of dogs barking, semi-trucks starting are far worse than chickens. Feels the choice to have control over ones food has priority. She does not see a problem in other cities that do allow chickens. She support the change to allow chickens and allow the selling of eggs. She also would like the wording change to allow other animals in the city.

Mandy Young: 419 N State St.:

Favors allowing the selling of eggs. Being she does not drive, having the ability to raise chickens and selling eggs is important to her. Recapped the ability of one young person to be responsible in raising and selling of eggs.

Tamara Rochette – 201 N State:

Supports allowing citizens to raise chickens. She was not aware of the restrictions limiting chickens. Has more concern with feral cats running at large. Has more complaint concerning the crows in the city. Noise from the chickens is not a concern.

Hand delivered Letters:

The mayor asked if Lisa Swanson would read the letters into the record.

Cory Jones – 190 W 4th North:

Said they have not had a problem with the Swanson chickens either with noise or smell. They support the ability to have chickens.

Samantha Mortimer – 528 Marian St.

Live near the Swanson and have never had an issue with their chickens. Her children enjoy watching the chickens. She supports having chickens in the city. She is concerned with the quality of eggs she gives her children.

Speaking Neutral:

Jet Noles – 324 West 1st North –

She showed the council a picture of a dog kennel which she has concern with. Having a small yard if the chicken coop was placed too close to her property line and looking from her deck is a concern.

Theron Andrus- 298 Dove:

He is in favor allowing other small animals to allow ducks, geese or other small animals. Some people are allergic to chicken eggs but are not allergic to duck eggs.

The mayor asked those in attendance if anyone wanted to speak who had not signed up.

Teresa Danielson – 3910 East 400 West:

She supports allowing citizens to have chickens even though she does not plan on having chickens. Feels the ordinance should be changed to allow turtles which she did not know until today that having them in the city was illegal.

Public Comment period closed at 7:35pm.

Councilman Simonson felt he did not want chicken in his neighborhood but he has listened to the residents. He supports the Idaho Falls ordinance. He feels the city should not lock out the right of ownership.

Councilman Walker reviewed Rexburg's ordinance and noted they allow chickens for some 98 years. In working and visiting Rexburg he has never seen chickens in and around Rexburg. Feels if Rexburg has allowed chickens for 98 years, it's hard to dispute something that has been allowed for almost 100 years.

Councilman Taylor distributed a copy of a state statute- Right to Farm Act. He cited from the statute section where the land structure used in ag production has a right to farm. He went on and explained where the production of food or fiber cities can't stop ag production. Cities can have ordinance against noise and smell but not ag use of property.

Also cited the city's comp plan which balances rights to planning land use shall not violate property rights. He felt having such an ordinance outlawing chickens and other animals the city is in violation of the right to farm act.

Councilman Olsen commented that he grew up in Rigby on Ramona. He used to visit his uncle farm and sell eggs around town. He opinion has changed somewhat. He feels if someone wants to raise chickens and sell eggs he does not feel it's right for the city or any government to stop that.

Councilman Maloney asked the attorney if he has reviewed the right to farm act. The attorney stated urbanization has encroached on farm land. One such instance was the Skaar Feedlot case in Idaho Falls. The act itself is a balancing act to balance the citizen's health, welfare and safety over ag use. The judiciary interprets the act somewhat narrower than the reading of the statute itself. Usually what controls is noise and smell.

The mayor stated he was not ready to rescind code 5.4.5 but could revisit the ordinance as the case comes forward at a later date.

Councilman Maloney stated he is not in favor of allowing chickens or goats. He has concern over the right to farm and then asked if that is the case why are we even discussing the ordinance. He then asked if any other community allows animals: cows, horses, etc.

The attorney when asked to respond to Councilman Maloney's concern. The mayor explained how he read the statute was when existing farm ground is being encroached by a city then being declared a nuisance and forcing the farmer to end his farming practice. The attorney stated the right to farm is a balancing act between ag and city on ag land. The right to farm act was designed to limit a city infringing on an existing ag operations.

Councilman Taylor felt a family size of 10 limiting their right to have eight chickens is restricting that family land right.

Councilman Taylor moved to strike code 5.4.5. The mayor asked if there was a second, hearing none, the motion died for lack of a second.

Councilman Simonson moved to accept the ordinance as written, seconded by Councilman Olsen.

Mayor Richardson asked the clerk to poll the council.

Councilman Walker	Yes via telephone
Councilman Taylor	Yes
Councilman Maloney	No
Councilman Sullenger	Yes
Councilman Simonson	Yes
Councilman Olsen	Yes

Regular Session:

Lease Agreement – Fybercom Wireless:

The council reviewed the executed agreement that was approved in substance subject to the formal lease. The mayor had one concern regarding the speed of the internet which was included under paragraph 4 – 6Mbps. Councilman Taylor noted the rent amount being two hundred dollars contained a “q” in the written portion of two hundred and needed to be corrected.

Councilman Taylor moved to approve the lease and authorize the mayor to sign on behalf of the city seconded by Councilman Sullenger.

Mayor Richardson asked the clerk to poll the council.

Councilman Walker	Yes via telephone
Councilman Taylor	Yes
Councilman Maloney	Yes

Councilman Sullenger	Yes
Councilman Simonson	Yes
Councilman Olsen	Yes

Discussion LID – West 1st North:

The mayor indicated the engineers have revised their cost estimates which the council had. They are still working on the specs for the road which should be completed within two weeks. They had stated the specs design would be completed 3-4 weeks earlier but due to a change in management caused a delay. Councilman Walker commented that the city did not have a set date for the design but that delay was on Keller and the city shouldn't be held up due to changes in management.

Councilman Simonson questioned the percentage of engineers fees. It was his understanding fees would be around 9% and the amount on the estimate is around 20%.

Councilman Walker felt the estimate should be in total and not separated into two sections. Council concurred.

The mayor indicated he would discuss the items raised with Keller's. He went on to express concern on how the project will be allocated between the city and the property owners. Should the discussion be off the bid estimates or off the actual bid numbers? The mayor posed the question to the clerk who indicated the amount you quote to the land owners cannot exceed 20%. If the contract bid price comes in higher than 20% of the amount told to the property owners, the process starts over. If the bid prices come under 20% the process continues but at a lower price.

Councilman Walker felt the city should use the estimate but up the price by 20% to give the city a cushion. Councilman Maloney asked what the time difference would be. The mayor said a delay from specs to bid could delay the project past the current year. The engineer need to compute the price to the landowner per lineal foot of property owned.

Reading of the Summary of Ordinance 2014-569:

The mayor read into the record the summary of the ordinance 2014-569 into the record which he had failed to do while it was under discussion.

Updating of City Code:

The clerk informed the council that the last update of the city code was done in 2005. Since that time the city has enacted 54 ordinances that need to be included in the code. Once the code has been updated the archaic and non-applicable code will still be in the code but the city could begin amending the code for such ordinances. He stated Sterling Codifiers has quoted a price \$3,700 to update the code, provide copies both printed and in digital format (which could be added to the web page).

Councilman Simonson moved to proceed with the update of the code with Sterling seconded by Councilman Maloney.

Mayor Richardson asked the clerk to poll the council.

Councilman Walker	Yes via telephone
Councilman Taylor	Yes
Councilman Maloney	Yes
Councilman Sullenger	Yes
Councilman Simonson	Yes

Councilman Olsen Yes

Community Review Expenditures:

The mayor reviewed the process of the community review in which the city will need to expend funds for printing, publishing flyers, meals and other incidental expenses: total projected amount is between \$1,500 to \$2,000. Committee member Hinckley came forward and informed the council the Rigby Chamber has contributed \$5,000 towards the review and in addition the Urban Renewal has committed \$3,150 towards the cost of review.

Councilman Simonson moved to authorize up to \$2,000 be expended towards the community review seconded by Councilman Olsen.

Mayor Richardson asked the clerk to poll the council.

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

Approval of Bills:

The clerk noted that there needed to add the library sales tax remittance, which came in after Friday's cutoff to the bill list. The amount needed to be added was \$221.16.

Councilman Maloney moved to pay the bills including the library's sale tax remittance seconded by Councilman Taylor.

Mayor Richardson asked the clerk to poll the council.

Councilman Walker	Yes via telephone
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 1, 2014 seconded by Councilman Taylor.

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

Other Council Business:

Community Review – The mayor commented that the Boise team will be in Rigby June 3, 4, & 5. The community will be meeting Thursday at the Jr High Common which conflicts with the council meeting. He would like the council to be involved in the review and suggested changing the date of the June 5 meeting to May 29, but there appeared to have at least two councilmember absent and felt the 29th was out. June 4 was mentioned and council appeared to be an acceptable alternative date.

Councilman Maloney moved to move council meeting from Thursday June 5 to Wednesday June 4 seconded by Councilman Sullenger.

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

Indian Relay Race: Chief Hammon mentioned the national Indian relay race will be at the rodeo arena May 29 and 30th.

City Cleanup- city wide cleanup will be Saturday May 17 from 8:00 to 5:00pm.

Public Comment:

Barry Lewis: Prefaced his comments to the discussion on the LID project. But his perception is that the discussion as a “given” rather than a “due we need to do that at all”. He noted the number of petitions signed by the residents opposed to the items being included in the LID: fire hydrants and lighting. The city could have paved the section of broken sewer line and been done with the road. There have been no alternatives discussed but an LID.

Deanna Dinsdale: In discussion with Josh Cutts he had told her his share of the LID that he got from the city would be \$27,000. She stated that there are several homes for sale and how will the LID affect those sales. The council knows information but it is not available to the citizens.

Dena Johnson: She had heard that there was sewer funds available to pave the road but nothing has been done. Right after the sewer line was repaired there was a sink hole in front of her home that was a concern to her small children that could have fallen in. The road need to be fixed and the sink hole repaired. Nothing has been done on the road for four years. She felt the city should share the information the council has with the citizens either via email or mail. A lot of discussion of what needs to be done but nothing said how to prevent the cost from falling onto the residents. Property values have declined. She currently owes more on her home than what she can sell it for. The LID will only add to the overall debt already owed.

Adjournment:

Councilman Simonson moved to adjourn seconded by Councilman Maloney.

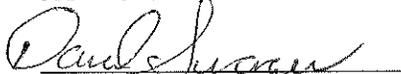
The mayor called for a voice poll: All in favor none opposed.

Meeting adjourned: 8:50pm.

City of Rigby


Jason Richardson, Mayor

ATTEST:


David Swager, Clerk