

City of Rigby  
Council Meeting Minutes  
May 16, 2019

Mayor Richardson called the meeting to order at 7:00pm Thursday, May 16, 2019. The pledge of allegiance was given by Doug Burke and the prayer given Kirk Olsen.

The mayor asked the clerk to call the roll:

Councilman Taylor	Present
Councilman Datwyler	Present
Councilman Hall	Present
Councilman Burke	Present
Councilman Olsen	Present
Councilman Hall	Absent – Arrives 8:15pm
Councilwoman Weight	Absent – Arrived 8:22pm

Also present: Mitch Bradley Public Works Director, Chief Tower, and Attorney Dunn

**Public Hearing – Zone Change – School Zone to Commercial:**

**Old School Property:**

Steve Heath from Harper Leavitt Engineers came forward and presented the reason for the zone change on the old junior high school property. The property is pending a sale to a developer who would like to build a 10,000 square foot building on the corner of Main and 1<sup>st</sup> West. The area is compatible and agrees with the city's comp plan for commercial development as it borders existing commercial zone. The developer is only purchasing the one lot. With those comments he concluded his remarks.

In Support:

Randy Waters – representing the purchaser of the property. He stated that he had others offers on the property for multi-family units but the school district turned down those offers because they had a vision of a development for the school site that did not include multi-family units. One of the items that the developer turned to this property was that there was not any other properties in Rigby that could accommodate this build. The developer is purchasing only Lot 8 of 8 in hopes that this sale and construction will spur other parties to purchase the remaining 7 lots. He felt that if property is developed it will be the keystone to further building.

Councilman Datwyler stated that the city could change the remaining property that is zoned school/park to another zone. He asked Mr. Waters if changing the zone from school would speed up the other developers in acquiring the remaining lots. Mr. Waters replied that if the other parcels were zoned something other than school/park it could speed up the process for the others.

Neutral:

None

In Opposition:

Daniel Stowell – Questioned if the property as proposed would fit the category as the best use as stated in the comp plan. He posted a comment on facebook and several replies favored something else as well as some in favor. Being a member of the planning/zoning commission he recused himself from conversation/discussion/decision on the request for re-zone during the p/z hearing and discussion. The comp plan also listed a factor to consider any re-zone in keeping the character of the property. The property has for years been a school and currently the north side is a park. Also any zone change should not affect property values. He is opposed to any square box buildings on the property that would affect his property values. Comp plan further states no expansion of commercial zones unless the developer can show reason for an expansion.

Public Hearing closed.

Rebuttal:

Mr. Heath stated that more commercial services are needed for Rigby.

Council Discussion:

Councilman Olsen – asked if the city had something in place to allow for the oversight as to what can be built.

The mayor responded that the city is moving to remove R-2 housing in the commercial zone. He stated most of the comments he read on facebook were in favor of the development. He further stated how far the city should go in dictating what kind of siding/colors type used in construction. He also noted the development agreement could exclude multi-family from construction. He asked the attorney if the city could exclude multi-family from being built. The attorney responded that what's in the code currently is what is in the code. So, yes multi-family units could be built being they are allowed in the commercial zone. Conditions could be placed on the development if those conditions are stated in the development agreement with both the city and developer agreeing to them.

Councilman Taylor felt the city could purchase the property and turn it over to a rec center but who's going to come and purchase it and make money on it. He felt it complies with zoning as commercial zone. The area is still a blight with dust blowing into the residents homes. It needs to be developed. He noted none of the public has come in either tonight or in the planning/zoning commission meetings.

The mayor noted the p/z commission approved the change in zone but without allowing multi-family units. He also discussed tabling the item this evening until the commercial zone can be changed to remove R-2 housing in commercial zones.

Councilman Datwyler noted that on a prior zone change the applicant stated they wanted the zone change to allow assisted living then changed after the zone change was approve and made application for multi-family building.

The attorney stated that the zone change can be approved contingent to a development agreement that restricts the building multi-family. It must be agreed upon in the development agreement prior to the granting of the zone change.

Mr. Waters came forward and stated that he has been texting the developer and he is willing to enter a development agreement that prohibits building multi-family housing as that is not his desire for the property. The use is not multi-family.

The mayor stated Mr. Waters mentioned the developer had looked at other properties but have found none until Mr. Waters approached the developer about this property. Councilman Taylor stated that it had been demonstrated that they would purchase the property with the intent of building a commercial building. The mayor added that he was struggling that some buildings are beautiful while others are chintzy. He is concerned with how far a city should go to preserve the functional use of the city versus the property owner's rights. Councilman Datwyler mentioned he was concerned with all property owners surrounding this parcel.

Councilman Taylor moved to approve the zone change from school/park to commercial zone contingent upon the development agreement excluding the construction of multi-family housing. Motion seconded by Councilman Burke.

The mayor asked the clerk to poll the council:

Councilman Taylor	Yes
Councilman Datwyler	Yes
Councilman Burke	Yes
Councilman Olsen	Yes

Councilman Taylor asked the attorney if reasons should be given for their decision.

Councilman Taylor – voted yes because it's a continuity of zones.

Councilman Datwyler –

Councilman Burke – felt the development was a good development and agree Councilman Taylor

Councilman Olsen –

**Public Hearing – Approval of Final Plat PUD– 561 West 1<sup>st</sup> South/240 S 5<sup>th</sup> West:**

**Ryan Loftus (Aspen Engineering)** representing Steve Billman came forward and presented the planned unit development being proposed off of 561 West 1<sup>st</sup> South and 240 S 5<sup>th</sup> West. The proposed development is roughly 3.9 acres which falls under the PUD guidelines. The proposal is for 9 4-unit development having access off of 5<sup>th</sup> West. Planning/zoning addressed the issue but mentioned the proposal was at the minimum allowed. The concept was for 108 parking spaces which has been increased to 120. They increased the set back by 5 feet to 15 feet, increased the common area to 31% and exceeds the 3 acres minimum requirements. P/Z did accept the concept as presented. The

secondary access is located at 217 S 5<sup>th</sup> West (the road that runs between two existing 4-plex) . P/Z approved phase one of two phases which will be developed. The first 5 buildings can be constructed without the secondary access per state fire marshal. He has since met with Tony Black of ITD to obtain access off of Hwy 48. The access that is available for the property per agreement with the prior owner to allow access to the back lot with a 25 foot driveway if the second access from the west is not available. ITD preference would be to provide the second access off of 5<sup>th</sup> West. Mr. Billman is in the process of making an agreement with the owners of 217 S 5<sup>th</sup> West to obtain access through the development. Phase 2 will happen because access off Hwy 48 is available now. Access off of Hwy 48 with Phase 1 is not available until Phase 2 is in begun.

Councilman Hall enters meeting: 8:15pm

The mayor addressed the issue of water meters for the 5 buildings and the future 4 remaining units. The mayor indicated that there would be a single meter for the 5 units. Mr. Loftus said it was his understanding that separate meters would be installed for each unit with a single bill for all 5 units.

Councilwoman Weight enters meeting: 8:22 pm.

Councilman Taylor asked about the fire lane and enforcement of parking on the lane. Mr. Loftus said Mr. Billman would be in agreement.

Councilman Burke reviewed the parking spaces. Mr. Loftus said each unit has a single car garage with an additional spot in front of the garage and one spot on the off streets for a total of 3. The mayor said this was not in accordance with city code. He then read from the code (10-5-C) where only one of the two parking stalls – the garage or the one in front of the garage can be counted but not both. Councilman Burke said there are currently 12 extra spaces but eliminating the one in front of the garage not being counted will cut into the 30% greenspace. The question as to the width of garage was corrected from a single car to a double car garage. Councilman Datwyler asked for a better drawing because the drawing he is looking at is not going across the entire front of the building. Mr. Loftus corrected his prior statement of double garage is only a single car garage. The mayor indicated this could be a significant change with the change in parking and green space. Mr. Loftus mentioned the space between building 5 and 7 as having excess space to accommodate the additional parking. The council stated they did not have copies of the entire development but only phase one with the five buildings. Access to 217 S 5<sup>th</sup> West while not required for Phase One would need to be completed prior to the starting of Phase Two (which was not provide to council).

Question of snow removal falls to the HOA agreement. The intention of the developer is to own the buildings. Councilman Taylor said at some point in time, Mr. Billman will pass away and then who assumes the responsibility without a HOA in place. Council commented that the HOA's in the city are not effective. The mayor was concerned with the future of the development as to enforcement of the HOA for a single owner to possible 9 different owners. The development cannot be sold unless the development is changed to a condominium development under state law.

Public Comment:

No one appeared to speak for, neutral or opposed to the development.

The mayor closed the public portion of the hearing.

Council Discussion:

Mr. Bradley confirmed with the council that an agreement has been made between the city and Mr. Billman that instead of a single 6 inch meter being install separate meters will be allowed with manifold shutoff to each unit. A 6 inch meter cost around \$11,000 versus \$1,000 per single meter. The developer would install the first meter and after that the city would be responsible. Question to the placement of garbage cans: Mr. Bradley stated the cans would need to be pulled to the main access road for pickup due to the fact that the truck cannot back up down the four separate lanes.

Councilman Datwyler brought up the issue with parking stalls and noted the change is significant. Increasing the parking spaces will cut into the green spaces which are at the minimum percentage allowed. Mr. Loftus addressed the parking issue and looked at the parking stalls on his draft copy. There will be a shortage of 24 spaces with the elimination of the space in front of the garage. The application clearly identified the number of spaces: the one in the garage, the one in front of the garage and the one on the main access road. The parking spaces were overlooked during all of the reviews and prior hearings and during reviews with the planning/zoning administrator. He felt there is enough room to add the parking spaces. He also wanted a clarification of green space: 10% or 30%. It was stated the 30% applies being it falls under R-2 zone.

Councilman Taylor wanted the plat corrected or the correct plat presented. He mentioned tabling the issue at which time the attorney mentioned the public was being denied their due process.

Councilman Taylor moved to deny the application seconded by Councilman Burke.

The mayor asked the clerk to poll the council:

Councilman Taylor	Yes – Need final plat
Councilman Datwyler	Yes – changes could be made but the public need due process
Councilman Hall	Abstained –having arrived late
Councilman Burke	Yes - Need the final plat
Councilman Olsen	No – the information could be provided at a later date
Councilwoman Weight -	Abstained having arrived during conversation

Public Works:

a. 3<sup>rd</sup> Reading Ordinance #2019-603:

Councilman Datwyler moved that ordinance #2019-603 be read in summary form seconded by Councilwoman Weight.

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

Councilman Taylor moved to adopt and publish ordinance #2019-603 seconded by Councilman Hall.

The mayor asked the clerk to poll the council:

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

b. Area of Impact:

Item scratched from agenda due to no agreement being presented since it was tabled by the county for further clarification on the definition of "high density housing" and the boundary of the area of impact.

c. Curbside Service:

Public works director Bradley brought up the issue of doing curb side grass pickup. The city is working to stay current with the demand but is falling behind. He stated the pickup is utilizing two employees to load and unload the bags of grass. In addition they have to load the grass and move it to a second location in the burn site. The cost of doing this is adding up to around \$46,000 per year. This past week he spent \$640 for labor alone not counting truck gas, tires etc. He is again looking at obtaining grass bins which the residents will buy for around \$100 plus a pickup fee. There is a third garbage truck available with would require one man to load and unload the grass. The unloading could be done at the west most end of the burn site and wouldn't require double handling. He was looking for direction from the council as to the number of residents to project into his calculations. 600 residents utilizing the service will be different than 900 residents. Councilman Taylor indicated to use a tiered amount to account for the amount of residents using and paying for the service. The mayor supports those using the service should pay for the service. Councilman Burke noted some commercial companies are leaving limbs on the curb and when approached was told the city would haul them off. But he countered that the commercial entity will haul off the limbs they cut. Grass is not to be put in the garbage can due to the added weight it brings and may have the city fined for being overweight. The cost and tying up of man power is getting costly both in time and dollar costs. Mr. Bradley also mentioned only doing it during a couple months of the year versus year round. The mayor asked if this was for branches and grass or just grass. Branches are limited to size due to not being able to burn. Limbs can be limited to the spring and fall not year round. Councilman Olsen stated that all commercial lawn care companies should be banned from using the burn site. Mr. Bradley stated that grass is the biggest issue. The clerk mentioned that one employee is out on worker comp due to a back injury and last week two employees complained of back injury. The injuries are causing the insurance rates to increase.

Councilman Taylor preferred the limbs being picked up once in the spring and once in the fall. For grass pickup: Mr. Bradley needs to use a tiered cost projection.

d. Wastewater Treatment Plant Upgrades:

Marvin Fielding from Keller Engineering updated the council on the findings of needed wastewater upgrades. Mr. Fielding presented the council with an analysis of what is or will be required to meet DEQ ammonia limits being discharged and other needed upgrades. His projections are based on the city population being at 8,236 by the year 2040. The five areas of concern are influent screens; grit removal; oxidation ditches; clarifiers and UV disinfection. The most critical deals with the ammonia levels where currently we are at 1.48 and we should be at .65

Mr. Fielding reviewed alternatives to upgrade the clarifiers ranging from \$12/14 million using untested system to a system in use in Twin Falls of \$14/17 million.

The changes to the ox ditch could be achieved by using the existing system and enhancing it with a second ditch using a bubble up air infiltration. With two vendors: Nuvoda and IFAS. Twin Falls is using the IFAS system and the Nuvoda system is limited to the east coast. Costs based on building new or utilizing new merged with old with the costs running from \$7.4 million to \$9.7 million with the IFAS being the \$9.7 million.

Mr. Fielding also mentioned the UV disinfection system may be looked at the same time. The current system using UV lights the bulbs are being discontinued in five years. The new system using proven technology would add \$1.6 million to the overall cost.

And the last item he reviewed was the thickener and screw press. Keeping the current belt press (which is undersized) and adding a screw press will cost \$1.99 million. Upsizing the existing belt press with a larger unit will cost \$1.67 million. Purchase a new belt press plus screw press will cost \$2.180 million.

After lengthy discussion between council and Mr. Fielding the council was opposed to the Nuvoda system for ammonia removal due it being unproven in the intermountain west with our accompanying low and prolonged winter temperatures. The council discussed visiting Burley and Twin Falls wastewater plant to see how the IFAS works and to discuss the pro/con with their officials. Councilmembers Taylor, Hall, Burke, and Weight expressed support for the IFAS and vertical incline UV system.

Councilman Taylor moved that the council hold work meetings at the wastewater treatment plant Wednesday, May 29, 2019 at 7:00pm to have a walking tour of the plant and see the system as it exist and where the upgrades are needed. Motion seconded by Councilman Datwyler.

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

**Planning/Zoning:**

a. 3rd Reading Ordinance #2019-604 – Amending Planned Unit Development:

Councilman Hall moved that ordinance #2019-604 be read in summary form seconded by Councilman Datwyler.

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

The attorney reads the summary of the ordinance.

Councilman Taylor moved to adopt and publish ordinance #2019-604 seconded by Councilman Hall.

The mayor asked the clerk to poll the council:

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

**Other Council Business:**

a. Motion to adopt and publish Ordinance #2019-602 –Amending Roads/Streets:

Councilman Taylor moved to adopt and publish ordinance #2019-602 seconded by Councilman Burke.

The mayor asked the clerk to poll the council:

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

**Public Comment:**

- Steve Billman: Mr. Billman voiced his frustration with the city in getting the development up and going on 561 West 1<sup>st</sup> South. He began working on this development in January, 2019 and for five months has not gained movement. The discussion on the parking spaces was discussed in two or three meetings with the planning/zoning administrator and nothing was mentioned about the garage and driveway parking until this evening. The site plan clearly showed the number of parking spaces and how they were being counted. There has been no public comment during the planning/zoning hearing or the current hearing yet due to an error on the part of the city's planning/zoning administrator of not informing him of the parking spaces he has to start the process over. He has a similar project in Blackfoot which has not seen the issues

Rigby is throwing at him. The mayor mentioned that the city could speed up the process and he will work with Mr. Billman to expedite the process. Councilman Taylor noted the council had not received the final plat showing both Phase 1 and Phase 2.

- Ryan Loftus: Mr. Loftus wanted to inform the council the issue with the installation of the water line on 4000 East has been resolved and the contractor is moving forward with no additional cost to the city. He thanked the council for their assistance with this.

**Approval of Minutes:**

- April 18, 2019: Councilman Taylor moved to approve the minutes of April 18, 2019 seconded by Councilman Hall.  
The mayor called for a voice poll: All in favor none opposed.
- May 2, 2019: Councilwoman Weight noted a motion had Councilman Burke making the motion and seconding the same motion. Councilman Taylor moved to table the minutes seconded by Councilwoman Weight.  
The mayor called for a voice poll: All in favor none opposed.

**Review and Approval of Bills:**

Councilman Hall moved to authorize the payment of the bills seconded by Councilman Burke.

The mayor asked the clerk to poll the council:

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

**Adjournment:**

Councilman Burke moved to adjourn the meeting seconded by Councilman Hall.

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

Meeting adjourned: 9:58 pm

CITY OF RIGBY



Doug Burke, Council President

ATTEST:



David Swager, Clerk