

City of Rigby
Council Meeting Minutes
October 20, 2016

Mayor Richardson called the meeting to order at 7:00 pm Thursday, October 20, 2016. The pledge of allegiance was given by Weight and the prayer was offered by Richard Datwyler.

The Chair asked the clerk to call the roll.

Councilwoman Thomas	Present
Councilwoman Weight	Present
Councilman Burke	Present
Councilman Taylor	Present
Councilman Olsen	Present
Councilman Datwyler	Present

Attorney Dunn & Sam Tower also present.

Amend Agenda:

The clerk mentioned that item #3 – Intent to create LID #9 is not complete at this time due to lack of the legal on the applicable properties and item #11 – Cordon House – being a purchase of real estate should be discussed in executive session.

Councilman Burke moved to amend the agenda that item #11 – Urban Renewal Sign and Cordon house be moved to executive session. Motion seconded by Council Olsen.

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

Councilman Taylor moved that item #4 - resolution to create LID #9 - be struck from the agenda seconded by Councilman Datwyler.

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

Application of Water Grant and Survey Results:

Ted Hendricks from the Development Company came forward with the results of the city survey concerning low to moderate income. The survey resulted in the city achieving the percentage of low to moderate income to qualify for the grant application for the water project. The percentage of low to moderate came out at 66.72%. The survey and its results is good for five years for various public facilities.

He also discussed the development contract for assistance in developing the application for the block grant and match needed. The proposed contract is for \$3,500 which will get the city through the application process. Two agencies which could be utilized for funding would be Rural Development and Idaho Dept. of Environmental Quality. Rural Development will require an attorney letter on the validity of the judicial process the city did several years ago when they were considering installing water meters. The judicial confirmation in most cases has been held a valid but the city would need a letter from a bond attorney confirming it. DEQ does not have the requirement of judicial review confirmation.

If the city is awarded the grant then the city may need to seek requests for proposals for engineering services and administrative services. The last RFP was done in conjunction with the wastewater

treatment plant six or seven years ago. With the new grant, the city could receive points by going through the RFP process for engineering services. The application is due November 20, 2016.

Amending Agenda:

The mayor asked the council if the council would like to consider moving the public comment portion of the agenda now instead of the place showing on the agenda. Hearing no motion or comment the mayor moved to the next item on the agenda.

Amending Ordinance - #2016-587 Amending the restriction of alcohol sales on Sundays:

The mayor asked the attorney if he would read the first reading of the proposed amendment of ordinance #2016-587.

Councilwoman Thomas asked that the email she had received is different than the one published. The clerk indicated that the paragraph was added at the last minute prior to being published and he did not get it sent to the council with the change.

Councilwoman Thomas moved to suspend the second and third reading of the ordinance seconded by Councilman Taylor.

The mayor cautioned the council that one of the reasons is to slow government down and with this ordinance being controversial he felt it would be really inappropriate if not out of line to waive the rules which are designed to allow for public input. In the past, the council has suspended the rules but in those cases they have not been controversial.

Councilwoman Thomas felt she has heard and the council has thought this through enough and has considered the comments of the public.

The mayor said he is aware of the public feelings that government does what they want and “sneak” things though and he thinks this is one such item.

Councilman Taylor called for a question on the motion.

The mayor asked the clerk to poll the council:

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

The motion passes to forego the second and third reading.

The mayor commented on the cons of alcohol use in the United States and the costs associated with its use. He also discussed the offer of compromise that was brought up and felt the added days is not a compromise. He felt that not adding the two days that could be added is nothing but a delay.

Councilman Datwyler commented that he felt he is listening to the people even given that, is the council doing our own decision or the voice of the people.

Councilman Olsen indicated they had voted regardless. To which Councilman Datwyler said the council has yet to adopt the ordinance but only waived the last two readings. The mayor said the vote taken at last council was only to publish not to adopt.

Councilwoman Weight felt the bars should put up video cameras around their business.

The mayor commented that if the prior vote taken by the public is not valid it could be left until the citizens could vote on it.

Councilman Taylor moved to move the public comment period now instead of later. Motion seconded by Councilwoman Weight.

The mayor called for a voice poll: Five in favor with Councilman Olsen opposed.

Public Comment:

Garth Cordon: The bars knew of the Sunday restriction when they purchased them but questioned why does the city allow the convenience stores to sale on Sunday. He felt that after purchasing the bar the state removed the restrictions of Sunday sales and over time the city would allow Sunday sales as other cities around Rigby has done so but that has been 16 years ago.

Jared Thomas: Supports the council's decision. He noted that he can have a beer at Me N' Stan's on Sunday and should be able to do so elsewhere.

Jennifer McClellan: Just because it's a Sunday doesn't mean drinking doesn't happen the six days of the week. Feels the ban on Sunday is a religion based opinion which she feels is an inappropriate basis to have an ordinance. She voted upholding the restrictions thinking the council knew more about it than she did. But after looking at it she would change her vote. Just because something has always been this way nothing would change. Either it right or its wrong – if it's wrong change it.

Jon Miller: Originally from the Washington area. Since moving from Washington to Rigby he has seen an increase in crime. Risk is not limited to Sunday only. He feels there should be at least one day without alcohol. This has been put to a ballot before and the residents voted. He asked: what is the harm of having two more readings? This should be put on the ballot. The voice of the public is not being heard.

Lisa Swanson:

Quoting Ben Davis who could not be in attendance this evening, noted the vote was limited to city residents as it is with all elections. The topic was on the ballot one year ago. And with it being published in the paper that there were to be three readings and foregoing the last two readings feels like its being rammed through this evening. If you feel the vote that was taken on the ballot is not valid, then perhaps your own election is not valid. The voice of the people needs to be heard and it's not being heard hear. This issue is not a religious issue but a moral one. The business that she works for has seen and experienced damage to their building by drunken individuals and the business has cameras but they don't always catch everything.

Janet Stevenson:

Mrs. Stevenson said the vote on the ballot was an advisory vote not binding on the council. The law banning Sunday liquor sales is a blue law and is tied to religious background and is puritanical. If the exclusion is only on Sunday and if you can't come up with a secular reason then you have to change the

law. Cited various comments from Rexburg citizens which allow Sunday sales. She stated that at times the voice of the people has been wrong.

Ruth Miller:

When she bought her bar 25 years ago none of the bars were allowed to sale on Sunday. Now all of the surrounding bars are allowed to sale on Sunday. Sunday allows person to socialize and are not drinkers. Rigby is living in the stone age. She thought that one day Rigby would follow suit as has happened in other cities Rigby would allow Sunday sales. The restriction is very much religiously related.

Barry Lewis:

Has heard a different of opinions as being discussed both at the last meeting and the current. For someone to say that his choice of not drinking is a religious choice but rather it's his individual choice and not on a specific religion or not. He suggested offering a compromise on the hours that a bar can be open on Sunday. He was at first opposed to having the bars open on Sunday but now feels a compromise could be workable. We need to end the division within the city over this issue.

Shane Brown:

Liquor is a regulated substance not a controlled substance and there is a difference between the two on what can be regulated. Sunday openings is not an issue that the bar owners feel it will be. Look at the bars in Idaho Falls, there isn't a big attendance on Sunday. The restrictions needs to be changed and the city move forward.

Shelly Allred:

Recounted the negative items the mayor discussed and felt the fast food stores should be closed down due to obesity.

Doug Murray:

Thought the vote on the advisory ballot and even though he couldn't vote was a bogus issue. Being opened on Sunday is an economic issue. He doesn't see it affecting traffic or intoxicated persons. The issue with damage to buildings is in his opinion heresy. Times have changed but Rigby hasn't moved forward.

Rob Webb:

Not opposed to Sunday liquor sales. The vote on the advisory vote should be considered by the members of the council. Even though it was an advisory vote those acting against that vote are not representing those voting. The vote shouldn't be ignored and questioned continued support for the members at the next election.

Ken Sharp:

Is opposed to the ban as it is a restraint of free trade. Bars are not always a downside but can be a social one for those individuals that have no other means of social interaction. In his case he needs time to talk and socialize with other individuals after having his wife in a nursing home.

The mayor closed the public comment period at 8:20pm.

Council open discussion:

The mayor commented that after hearing the public comments, perhaps there is a compromise that could be reached so it doesn't appear to be a heavy hand by the council.

Councilman Taylor mentioned that he had discussed a compromise but it didn't get anywhere.
Councilwoman Thomas felt a compromise is still government regulation.
Councilman Burke said attendance to the bars will regulate itself.
Councilman Olsen stated that the council vote is obvious and why would the bar owners after seeing the vote consider a compromise.
The mayor felt there isn't room for compromise.
Councilwoman Thomas read the definition of a leading question and re-read the wording placed on the ballot. Feels the question is a leading question.
The mayor disagreed with the question being a leading question.
Councilman Taylor stated it was a text book leading question.
Councilman Burke offered a statement from the Idaho statute where the sale of liquor by the drink should be either yes or no. It shouldn't be misleading.
Councilwoman Thomas asked the attorney about the wording of the ordinance. He responded that the wording is confusing and a better solution would be to re-write the ordinance to allow liquor, beer and wine by the drink.
Councilwoman Thomas thought it would be better to re-write the ordinance and republish the re-drafted ordinance.
Councilman Burke thought the wording in the ordinance needed to be simplified. The basic issue is not going to change but only the wording for better clarification.

Councilwoman Thomas moved that the ordinance be re-written for better clarification.
Councilman Taylor agreed that it may need to be re-written and have the attorney weigh in.
Councilman Olsen didn't want to keep having the public appearing again and again.
The mayor indicated a motion to adopt would be problematic or just move on. The mayor responding to a question from the audience listed the three sections that were published but in the middle section the word "Sunday" was not stricken from the ordinance.
Councilman Datwyler asked why the city is even regulating this. The council makes cognitive decisions based on facts.
Councilman Olsen stated that if we are to re-write the ordinance the whole process begins again.
Council feels it best to re-draft the ordinance.
Hearing no motions the mayor moved to the next item on the agenda.

Contract with Jefferson County for building inspections:

The mayor said the city has in the past contracted with the city of Rexburg for building inspections. Rexburg is asking to be let out of the agreement. The county is proposing a contract for building inspections with a corresponding attached fee schedule. The city will need to approve the contract and adopt the associated fee schedule.

Councilwoman Weight noted there was an error with section 13 - termination clause – the written word contained thirty day and the numeric number is ninety days. The attorney commented it was a clerical error and would be corrected.

Asked by Councilman Taylor if there was any conflict of interest, the attorney noted there isn't that he is aware of. Discussing the fees, the fees are controlled by the county.

Councilwoman Weight moved to approve the contract between the city and Jefferson County for building inspections with the correction seconded by Councilman Datwyler.

The mayor called for a voice poll: All in favor.

Increased building fees:

The discussion regarding the fee schedule and with the wording to add "as amended from time to time" the county would need to notify the city when they increase their fees.

Councilman Taylor moved to create resolution adopting the fee schedule as attached and to call for public hearing on the increase of fees November 3, 2016. Motion seconded by Councilman Burke.

The mayor called for a voice poll: All in favor.

Copier Contract with police department:

The police department acquired a new copier contract which needs to be approved by the council. The contract is for a Toshiba copier with Idaho Business Systems.

Councilman Taylor moved to approve the contract for the for the Toshiba copier with Idaho Business System seconded by Councilwomen Weight.

The mayor called for a voice poll: All in favor.

Waiver of Sewer Hookup Fees:

The individual homeowner has not been connected to the city sewer system and has been paying both the monthly sewer maintenance and sewer bond fee. The sewer maintenance fee paid for the last five to six years more than offset the hookup fee of \$3,000.

Councilman Datwyler moved to waive the required sewer hookup fee of \$3,000 on 537 North 3rd West seconded by Councilman Olsen.

The mayor asked the clerk to poll the council:

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

Contract for computer maintenance and printer's contract – city hall:

Complete Office Care has been doing the computers maintenance and upgrading for the five computers in city hall. They also do annual maintenance on the two printers and fax machine. The contract is up for renewal. The monthly fee is the same as in the last contract - \$605.62 month. The billing to contract shows a negative \$700 if the city were to have paid on an hourly basis versus the monthly contract. In the prior year the difference was close to a positive difference of around \$1,000. Comment was made that if the city opted out of the contract then came back with one the following year the continuity from year to year could be lost and in the end cost the city more.

Councilman Taylor moved to approve the contract for computer and printer contract with Complete Office Care seconded by Councilman Burke.

The mayor asked the clerk to poll the council:

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

Approval of Minutes:

Councilwoman Weight noted corrections on the motion for zone change missing council person; spelling of Pastor Schilling in public comment; spelling on John Gorton under public comment; and purchase of mowers from Councilwoman Thomas to Councilwoman Weight.

Councilwoman Weight moved to approve the minutes as corrected seconded by Councilwoman Thomas.

The mayor called for a voice poll: All in favor.

Approval of Bills:

Councilwoman Thomas asked about the shift coverage to Jefferson County sheriff. The expense is for the time the county covered the police department until the new chief was appointed.

Councilwoman Weight moved to approve the bills seconded by Councilwoman Thomas.

The mayor asked the clerk to poll the council:

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

Other Council Business:

Councilwoman Thomas: Was asked by the museum board that the welcome to Rigby sign needed a facelift and is looking awful.

Training: The mayor noted there is an AIC meeting coming November 9, 2016 covering a number of items that pertains to cities. The mayor also noted that he has received a number of phone calls from the citizens expressing concern that members of the council may be discussing topics among themselves outside of council which may be a violation of the open meeting laws. The question arose about responding on social media. The mayor said the November 9 meeting would be a good place to raise the question.

Planning Zoning: Councilman Datwyler said the planning and zoning board is working towards agreement with the county on the impact zone.

Executive Session:

Councilman Burke moved that the council enter into executive session per Idaho Code #74-06(c) to discuss the acquisition of property. Motion seconded by Councilman Taylor.

The mayor asked the clerk to poll the council:

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

Council enters executive session: 9:12pm

Council exits executive session at: 9:32pm

Decision/Discussion:

The mayor asked if there were any motions or discussion out of executive session.

Councilwoman Weight moved that the council allow Councilman Burke to negotiate the acquisition of the property in question seconded by Councilman Taylor.

The mayor asked the clerk to poll the council:

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

Urban Renewal Marque Sign:

The mayor noted there were two different items placed on the agenda – Urban Renewal sign and Cordon Property. Being the urban renewal sign is not exempt to executive session discussion; he felt it should be discussed in open session.

Councilman Burke wanted what the council felt towards the city accepting the maintenance and responsibility for the sign.

Councilman Olsen expressed concern of the costs four, five years down the road and if the city could afford to maintain the sign. He didn't want the sign to be there and not used for lack of funds.

The sign has a 30-year life which currently is eight to ten years old. The maintenance of the sign would average \$1,000 over a 10-year period. Monthly power would cost around \$400 per month based on 18-hours in operation for seven days week.

Councilman Taylor suggested an alternative use of the funds he likes the sign but has concerns. Councilwoman Weight would like to see the funds used for playground equipment however she doesn't like it but she not opposed to it. Councilman Datwyler also expressed the desire that the funds be used elsewhere. Councilwoman Thomas likes the idea but the sign was not correct. Councilman Olsen is opposed to the sign. Councilman Burke thinks it a way to get information out to the public but he has mixed feelings on it. The mayor stated a good playground will bring people to the city.

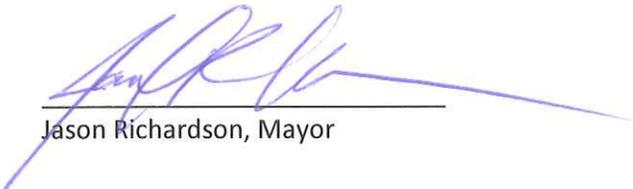
Adjournment:

Councilwoman Thomas moved that the council adjourn seconded by Councilwoman Weight.

The mayor called for a voice poll: All in favor.

The council adjourned: 9:50pm

CITY OF RIGBY



Jason Richardson, Mayor

ATTEST:



David Swager, Clerk