

City of Rigby
Council Meeting Minutes
October 6, 2016

Councilman Burke opened the meeting and informed the audience that Mayor Richardson is out of town and he will be conducting this evening meeting. He called the meeting to order at 7:00 pm Thursday, October 6, 2016. The pledge of allegiance was given by Kirk Olsen and the prayer was offered by Benson Taylor.

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.

Public Hearing- Amending Restriction of Liquor/Beer Sale by the drink on Sunday:

The Chair reminded everyone in attendance who wished to speak on the amending of the ordinance needed to sign in on the sheet at the front of the council chambers.

Doug Murray: Lives outside of city but own property inside of the city. Spoke in favor of the change. As a bar owner the restriction limits his income. Allowing the convenience stores to sell beer on Sunday is not fair, should perhaps eliminating all beer sales on Sunday. Felt it is his civil right to operate his business in the manner he feels benefits him. Mentioned that being forced to close on Sunday his utility rates should be adjusted to reflect the restriction.

Kirk Scott: Lives outside of city but owns two properties inside the city. His business elects to close on Sunday and favored the idea expressed by Mr. Murray of the bars having a reduced rate due to the forced closure on Sunday. Felt the city needed to reflect what's happening in other cities.

Pat Scott: Lives in the city. In favor of the change. The ban on Sunday sales follows age old "blue laws" that are out dated and needs to be updated.

Ron Swafford: Lives outside Rigby. Is speaking on behalf of the bar owners in favor of the change. Recapped old laws going back to the 1600's and how the restrictions evolved over the years. The banning of liquor sales continue with those old "blue laws". He listed a number of prohibited activities that were banned on Sunday. The current trend of thinking now a day involves people using the bar as a social day to meet friends. Many have no extended families and use Sunday as a social event. The bars owners do monitor users. People do regulate themselves and the city needs to change the restrictions.

Mike Maloney: Lives in the city. Is opposed to the change. Felt the advisory vote taken on last election expressed the will of the people and the council members are elected to follow the will of the people. Likes the community being quiet on Sunday and should continue.

Councilwoman Thomas: Commented that many people felt the wording on the advisory vote was confusing. A television station got the vote wrong due to the reading.

Wayne Rogers: Lives outside of the city. Is in favor of the change.

Ben Davis: Lives inside the city. Is opposed to the change. Noted the state constitution states the sale of liquor is a controlled substance and the issuance of a license is a privilege and not a right. The state also allows the cities to determine its own regulations governing the selling of liquor except for days which the state still restricts. The city has the "right" to control the selling of liquor.

Linda Baker: Lives outside of the city. Is opposed to the change. Complained of the traffic on 300 North. Every other day the road is crowded and busy all the time except for Sunday. She read from the newspaper an article written on the discussion the council had previously on the subject.

Tonya Hillman: Lives inside the city. Is opposed to the change. She wanted to remind the council of the vote that the citizens expressed earlier. She took exception that the wording on the ballot was confusing or misleading. She understood the question and supports the ban on Sunday sales.

Barry Lewis: Lives inside the city. Is opposed to the change and concur with what has been said. The council needs to focus on what the people expressed and have told the council.

Chris Keil: Lives outside the city. Is in favor of the change. Being a bartender the extra day of being able to work will improve her means of supporting her family. Working as a bartender is not enjoyable. She lives in Idaho Falls but buys gas and grocery in Rigby. The extra income of being able to work on Sunday means being better able to support her family.

Lisa Swanson: Lives inside the city. Is opposed to the change. The citizens did vote on the issue (3,000) and felt the insinuation that the wording on the ballot was misleading and the people did not know what they were voting for is very offensive. Does not feel people should ignore the vote. The regulation of liquor is controlled by the state and can be controlled by the city. Liquor is a controlled substance. She recalled her employers office is between the bars has created problems with the fence being backed into and personal cars have been damaged by intoxicated people. She noted one lady who has been confronted by drunken people exiting the bars and she is fearful of coming out of her apartment. She wants to keep the city peaceful and quiet on Sunday.

Councilwoman Weight: Replied to the Mrs. Swanson comment of 3,000 voting the correct number is 386 persons voted on the ballot and not 3,000.

Councilman Datwyler: Commented that very seldom does the city have 100% voter turnout but you still have to recognize the plurality of those voting as they do represent the citizens.

Var Parkinson: Lives inside the city. Is in favor of the change. Being a truck driver he is out of town many days during the week. On Sunday he likes to go to Ririe to have dinner and a drink and to talk with his friends. Allowing Sunday sales is not going to cause problems. The traffic on Sunday is from those attending church not just from bar patrons. People will drink if they so want to in bars or at home. Enforcement of the bar is controlled by the bar owners who govern the patrons for excessive drinking. He does not see this being an issue.

Dave Schilling: Lives outside of the city. Spoke on the issue of legislating morality. He felt the individual can do one's morality and should not be done by legislation. The council should represent all of the

people. He has no right to legislate someone's morality. The decision should be: Is this the right thing to do or are you legislating morality?

Ruth Miller: Lives outside of the city. In favor and owns The Office Bar. She felt that the amount of tax and license that the city imposes on the bar is at times overwhelming. Her water and sewer bill is double that of the nine person home. She has no lawn to water. The rates are not fair. No one has the right to tell someone how conduct their lives. If the bars can't sell beer/liquor on Sunday then no one should be able to sell beer/liquor or wine.

Councilman Burke: Stated the amount of tax imposed on liquor sales is imposed by the state and the tax goes to the state. The amount of tax the city imposes is a part of doing business and should be factored into the cost of doing business.

Shane Brown: Lives inside the city. Said the argument he's heard on both sides have both been good. Being a business owner and having that one day a week taken away from them is unfair and unjust. The state says selling liquor on Sunday is legal. Consider if one person leaves town and comes home and injures one person or kills one person, have you made the right chose?

Councilman Datwyler: Stated the state has not said it is "legal" to sell liquor on Sunday but has given that option to the municipalities.

John Gorton: Lives outside the city. Stated that keeping the ban on Sunday sales will in some way keep people from drinking on Sunday is wrong. People are and will drink on Sunday whether they buy it on Saturday or go out of town if they want to drink they are and will. The drinking inside a bar is being done in a controlled environment. Those drinking in their homes generally drink more and in a non-controlled environment. The bar owner need to consider the cost of labor and heat, if it's not profitable the bar owner will cease selling on Sunday. That's their decision.

Marvin Baker: Lives outside the city. Is opposed to the change. He said one comment he heard was that Rexburg allows it, Ririe allows it, Roberts allow it. He asks: so what? Times have changed over the years since he's moved to Rigby. When they moved to Rigby it didn't have any laws allowing sale of liquor on Sunday. Growth is something he can't control but he can speak out against the selling of liquor on Sunday. He feels it's wrong to allow sale of liquor on Sunday.

The chair closed the public hearing.

Councilwoman Thomas: Said she has received four statements from the citizens that if the council wished she would read them into the record.

Councilman Olsen indicated he has been contacted by several of the residents along his street who have expressed opposition to the change. He said he recognizes the arguments presented on both of the debate but is still opposed to lifting the ban.

Councilman Taylor felt the ballot question was misleading in the manner in which it was phased as a leading statement.

Councilman Olsen stated the businesses knew the bars were closed on Sunday when they purchased the business and developed their business plan. But can see the need to grow a business and argument of the need to allow a business to grow.

Councilman Taylor indicated that Dave Schilling statement affected his thinking.

Councilman Datwyler said alcohol is a controlled substance which the government controls. Part of government is to provide for life, liberty and the pursuit of happiness. Government provides laws to insure those ideals. Alcohol affects a person's body in a number of ways addictions being one affect. Being that alcohol is a controlled substance there are laws to restrict the use of it. Do to the "right thing" as mentioned by Pastor Dave it's not right to hurt other people. His final thought on the issue is that we know the will of the people and to follow that voice.

Councilwoman Weight thought that this should have been discussed more the last time and would like to have it on the ballot. She has mixed thoughts on the issue having seen the effects of alcohol on a person.

Councilman Datwyler has also struggled with the issue. Alcohol is being controlled because of what it does to the person. Controlled substance changes over time.

Councilman Burke recapped his travel in Montana with some establishments allowing liquor sales and other not on Sunday. The Maverick store sales for alcohol sales on Sunday was 2% of gross sales. Many customers coming out of the store when asked stated they have never visited a bar in Rigby saying they chose to take they alcohol home. The business coming off the highway is not attracting tourist to stop and have a beer will not happen. Increased sales of liquor on the city is a minimum. Taxes imposed on a business a cost of doing business.

Councilwoman Thomas moved to strike the word Sunday from city ordinance that would allow the bars to be opened on Sunday. Motion seconded by Councilman Taylor.

The Chair asked the clerk to poll the council. .

Councilwoman Thomas	Yes
Councilwoman Weight	Yes
Councilman Burke	Yes
Councilman Taylor	Yes – not an advocate to allow people to drink.
Councilman Olsen	No
Councilman Datwyler	No – following the will of the people.

Motion passes.

Councilwoman Thomas moved to amend the ordinance for publication as passed motion seconded by Councilwoman Weight.

The chair called for a voice poll: Five in favor – one opposed.

Break for 15 minutes.

The chair called the meeting back to order at 8:15pm

Swearing in New Police Chief:

The city clerk asked Sam Tower to come forward and the clerk administered the oath of office to him.

Zone Changes – 359 N 3rd West and South 5th West:

The chair indicated the council has received information on the zone change for the two properties which the planning and zoning commission has made a recommendation to approve. The planning and zoning commission has held a public hearing in which a number of citizens gave the opinion on the change. The change is from a R-1 (single family housing) to R-2 (multi-family housing). The council needs to set a public hearing date and allow for two publication.

Councilman Datwyler commented that during the public hearing only three persons supported the zone change and they had a financial interest in the property. A large number of the public voiced their opposition to the change. The commission made the decision not on that the change in zoning “should” be done but that it “could” be changed.

Councilwoman Weight ask the attorney if her decision should be made on what is presented or what the plan is. The attorney replied that normally a zone change involves a large partial of property and not a spot zone change. In addition does the zone change complies with the comp plan. An argument can be made either for or against the zone change. The attorney job will be to provide prior rulings on zone change and the council decides if the request hits all the checkmarks.

Councilwoman Thomas moved to set the public hearing for the two zone changes on November 3, 2016 seconded by Councilman Taylor.

The Chair 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

Resolution to create LID #9:

The chair indicated the resolution needed to be tabled due to lack of costs for the projects being available.

Councilman Taylor moved to table the item seconded by Councilwoman Weight.

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

Audit Contract:

Councilman Datwyler asked about the costs the contract provided for and asked how they determined their costs. The clerk indicated the auditor usually brings in a staff of three accountants along with the lead auditor. The three staff people work five day for around 7-8 hours and the lead auditor works 3-4 days for around 6-7 hours. Then there is certain amount of office write up work to be done and reconciled to the field work. When asked if the audit should be bid out, the clerk indicated that if the

council wanted to bid the audit out it needed to be done in March or April. To get a new auditor this late in the year the report more than likely would not be completed until late next year. Bidding for professional services need not be the lowest bid.

Councilman Taylor moved to approve the 2016/17 audit contract with Jensen Poulsen seconded by Councilman Olsen.

The Chair 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

Interfund Transfers:

The treasurer presented the council with the fourth quarter transfers from the enterprise funds and the two budgeted transfers from the capital improvement fund to the airport and from the internal service fund to the capital improvement fund. Summary follows.

To:	From:	Amt.
General Fund	Water	6,250.00
General Fund	Sanitation	6,250.00
General Fund	Sewer	6,250.00
Capital Improvement Fund	Internal Service Fund	40,000.00
Airport	Capital Improvement Fund	20,000.00

Councilman Datwyler moved to approve the transfers as listed seconded by Councilman Burke.

The Chair 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

Treasurer's August 2016 Financial Statements:

The treasurer recapped his management letter on the August 2016 financial statements. Beginning with the analysis of actual revenue to actual expenditures compared with net budget he noted all of the funds were exceeding the net budgeted amount but for the bond account. This fund as he has mentioned in the past is due to the advance payment of \$500,000 on the debt service fund.

Regarding the departmental expenses in the general fund all the department are below 92% but for the transfer to the library which is at 100%.

Comparing budgeted revenues to budgeted revenues he again noted the actual revenues are exceeding budget but for the capital improvement fund and airport which will be trued up with the transfer made earlier.

Comparing budgeted expenditures with actual expenditures he again noted the fund were below the budget percentage of 92%.

He reviewed the various journal entries he made during the month. Routine entries recording the internal service funds, accrual of interest on the various investments of the city and activities occurring in the park/rodeo fund checking account.

Rejection of Insurance from acts of terrorism:

The city's insurance carrier (ICRMP) has submitted a letter which provides for additional insurance coverage for acts of terror. The premium for the additional coverage is \$21,351. ICRMP provides for \$50 million terror coverage for all entities. A statement of rejection needed to be sent to ICRMP if the council so elects to reject the coverage.

Councilman Olsen moved that the city reject the coverage for acts of terror seconded by Council Datwyler.

The Chair 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

Purchase of zero turn mowers:

The chair indicated the public works department has provided the council with their work done on securing bids on two zero turn mowers. They recommended the two mowers from Point S in the net trade amount of \$10,758.

Councilman Taylor asked if this was planned in the capital improvement fund. The clerk stated it was out of the current year's 2016/17 budget.

Councilwoman Weight moved to accept the bid and purchase the two mowers from Point S in the amount of \$10,758 seconded by Councilwoman Thomas.

The Chair asked the clerk to poll the council.

Councilwoman Thomas	Yes
Councilwoman Weight	Yes
Councilman Burke	Yes
Councilman Taylor	Yes - with a thank you to Point S for the price they gave.
Councilman Olsen	Yes
Councilman Datwyler	Yes

Cordon House:

Councilman Olsen stated for council information only that a realtor has approached him on the Cordon house located in south park. Olsen indicated the owners are looking a selling the house and have considered reducing the sell price. One of the consideration being discussed if the house was to sell would be that the new owner could erect an outdoor advertising billboard and rent the home. He felt the home needed to be removed from the property and if the city and urban renewal could work together to assist removing the house from the property. No price has been established. Councilman Burke will discuss it with the urban renewal agency.

Approval of Minutes:

Councilwoman Thomas moved to approve the minutes of September 15, 2016 seconded by Councilman Olsen.

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

Approval of Bills:

Councilwoman Weight asked why the large number of refunds on deposits. The clerk in his financial report indicated the number was high due to not reviewing the deposits earlier in the year and at year end he reconciled the detail to the g/l totals and notice the 40-50 outstanding deposits that needed to be refunded.

Councilwoman Weight moved to approve the bills seconded by Councilman Taylor.

The Chair 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:

South Park Caboose: Councilwoman Thomas asked if the caboose was going to be removed. Councilman Burke indicated there was a rumor to that effect but the urban renewal was putting up a sign an mentioned one location as being where the caboose was located but the decision was made to move the sign to another location without removing the caboose. The caboose is not being removed.

Walking Paths in Central Park: Councilwoman Thomas indicated the Lions Club is still proceeding with the fund raiser for the installation of a walking path around the two sides of central park. They have an estimated \$3,000-\$5,000 for the project. An estimate of the paths is around \$25,000. Councilwoman Thomas didn't know how the difference would be raised without more fund raising or other sources.

Councilman Olsen noted that during a recent event that several of the older residents were having trouble getting to the shelter and had to walk in the street to get into the shelter. He supports the walk path.

Public Comment:

Truck Parking on Short Street: Wayne Rogers – complained about the trucks being parked on Short St and blocking the cross walks and stop signs. The tire company is also working on the trucks while the truck is parked in the street. He has talked with the owners of his concern and the police has been ticketing but the practice is still occurring.

Councilman Burke has discussed the issue with the tire shop and the police and they are parking within the prescribed area. Working on trucks while on the street is a violation and can and will be cited. But parking has been reviewed and is being watched. One of the problems is the lack of a sidewalk along the road.

Executive Session:

Councilman Taylor moved that the council enter into executive session per Idaho code 74-206(f) to communicate with legal counsel on pending or likely litigation seconded by Councilwoman Weight.

The Chair 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: 9:10pm.

Council exits executive session: 9:13pm.

Decision/discussion: None.

Councilman Taylor moved that the council enter into executive session per Idaho code 74-206(c) to acquire an interest in real estate property not owned by a public agency seconded by Councilwoman Thomas.

The Chair 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: 9:13pm

Council exits executive session: 9:23pm

Decision/discussion: None.

Adjournment:

Councilman Datwyler moved to adjourn seconded by Councilman Taylor.

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

Adjourned: 9:24pm

CITY OF RIGBY



Jason Richardson, Mayor

ATTEST:



David Swager, Clerk