

MINUTES OF A REGULAR CITY COUNCIL MEETING HELD SEPTEMBER 18, 2008 AT THE CIVIC CENTER, 83 WEST MAIN, HYRUM, UTAH.

CONVENED: 6:30 p.m.

CONDUCTING: Mayor W. Dean Howard

ROLL CALL: Councilmembers Martin L. Felix, Paul C. James, Thomas C. LaBau, Stephanie Miller, and Craig Rasmussen present.

CALL TO ORDER: There being five members present and five members representing a quorum, Mayor Howard called the meeting to order.

OTHERS PRESENT: City Administrator D. Brent Jensen and four citizens. City Recorder Stephanie Fricke recorded the minutes.

WELCOME: Mayor Howard welcomed everyone in attendance and invited audience participation.

PLEDGE OF ALLEGIANCE: City Administrator D. Brent Jensen led the governing body and the citizens in the Pledge of Allegiance.

INVOCATION: Mayor Howard

APPROVAL OF MINUTES:

The minutes of a special meeting held on September 4, 2008 at 2:00 p.m. were amended as follows: Page 2, paragraph 6, after "...these funds can be used to purchase access for a trailhead, but" change "for not used to build trails." to "can't be used to build trails.".

ACTION Councilmember James made a motion to approve the minutes of a special meeting held on September 4, 2008 with the above amendment. Councilmember Rasmussen seconded the motion and all five councilmembers voted aye.

The minutes of a regular meeting held on September 4, 2008 were approved with the following amendments: Page 3, paragraph 3, sentence 1, change "dray storage warehouse" to "dry storage warehouse"; Page 3, paragraph 4, after "Zoning Administrator Ron Salvesen" change "said" to "sent a letter to the City Council stating"; Page 7, paragraph 3, sentence 2, change "mosquito" to "mosquitoes; and Page 7, paragraph 4, after "The City Council has never said that it does not desire to annex more land" delete "and does not want".

ACTION Councilmember Miller made a motion to approve the minutes of a regular meeting held on September 4, 2008 with the above amendments. Councilmember LaBau

seconded the motion and all five councilmembers voted aye.

AGENDA ADOPTION: A copy of the notice and agenda for this meeting was faxed to The Herald Journal, mailed to each member of the governing body, and posted at the Civic Center more than forty-eight hours before meeting time.

ACTION Councilmember Rasmussen made a motion to approve the agenda as written. Councilmember James seconded the motion and all five councilmembers voted aye.

AGENDA

8. SCHEDULED DELEGATIONS:
 - A. Mike Wilcox, Sunrise Engineering - To report on the relicensing of Hyrum City's Hydro Electric Plant.
 - B. Bonnie Nielsen - To request approval of a two lot mini-subdivision located at approximately 630 East 100 South.
9. INTRODUCTION AND ADOPTION OF RESOLUTIONS AND ORDINANCES:
 - A. Resolution 08-28 - A resolution amending Hyrum City's Design Standards and Construction Specifications for Public Works Construction in Hyrum.
 - B. Ordinance 08-21 - An ordinance adding Section 9.52.035 to the Hyrum City Municipal Code to prohibit smoking in Hyrum City's Parks, Recreational Facilities, and Cemeteries, and near Mass Gatherings.
10. OTHER BUSINESS:
 - A. Consideration and appointment of Library Board Members.
 - B. Consideration and approval of Cooperative Agreement for traffic signal locations on Highway 165.
 - C. Consideration and award of bid for the 800 East Sidewalk Project.
 - D. Discussion on off-highway vehicle use on public streets and/or highways.
11. ADJOURNMENT

SCHEDULED DELEGATIONS:

MIKE WILCOX, SUNRISE ENGINEERING - TO REPORT ON THE RELICENSING OF HYRUM CITY'S HYDRO ELECTRIC PLANT.

Mike Wilcox with Sunrise Engineering introduced Allen Robinson President of Sunrise Engineering, Scott Archibald Branch Manager of the Smithfield Office, and Kent Tuttle Lead Hydroelectric Engineer.

Kent Tuttle said Hyrum City's Hydroelectric Plant was initially constructed in 1930-1931, under an original license with a term of 50 years. On March 13, 1981, Hyrum City received a new minor license that expired on April 30, 2008. Hyrum City filed an

application on April 28, 2006 for a subsequent license to continue to operate the existing 400 kilowatt (kW) Hydroelectric Plant. Hyrum City was issued a 30 year license to operate its Hydroelectric Plant on August 1, 2008. The license is subject to the terms and conditions of FERC. There were 28 State and Federal Agencies that were involved in the relicensing process and each agency had different concerns that needed to be addressed. Initially, it looked as if Hyrum City would have to build a new fish ladder which would have cost the City over one million dollars. After numerous battles with several agencies FERC agreed that Hyrum City should not have to build a new fish ladder. There were a couple of agencies wanting Hyrum City to reduce its bypass flow and increase instream flow. However, FERC agreed with Hyrum City and has allowed the City to provide a continuous release of 36 cfs from March 1 through August 31 and 18 cfs from September 1 through February 28. Hyrum City may reduce flows in the bypass reach during low flow periods to 9 cfs. During the relicensing process it was discovered that FERC had reclassified the Hydroelectric Plant Dam as a high hazard dam in 2002. Sunrise Engineering was successful in working with FERC to get the dam reclassified as a low hazard dam. The reclassification only changes the Federal rating and not the States rating. The Hydroelectric Plant Dam is still classified as a high hazard dam by the State of Utah. Having the dam classified as a high hazard dam by the State of Utah will allow Hyrum City to receive State funding, if funds are available, to rebuild the dam when necessary.

BONNIE NIELSEN - TO REQUEST APPROVAL OF A TWO LOT MINI-SUBDIVISION LOCATED AT APPROXIMATELY 630 EAST 100 SOUTH.

Zoning Administrator Ron Salvesen said on September 11, 2008 the Planning Commission recommended approval of Bonnie Nielsen's request for a two lot mini-subdivision located at approximately 630 East 100 South with the following conditions: 1) Two street trees to be planted on the new lot when developed; 2) Sidewalk on the south side of 100 South is on the sidewalk master plan, so it will be required at the time of development as stated in Resolution 00-16 and the remainder parcel is at the discretion of the City Council whether to require a deposit to complete the sidewalk rather than to complete the sidewalk at development; and 3) The possible right-of-way issue regarding the 10 foot difference on 600 East needs further investigation.

Bonnie Nielsen said she understands the requirement of a sidewalk in front of new construction at 630 East 100 South because it is on the City's sidewalk grid. However, she does not agree with installing a sidewalk in the middle of a block with no other sidewalks nor should she have to install sidewalk to the side of her existing house. The Planning Commission couldn't determine if Hyrum City's Code required sidewalk to be installed for just new construction or if sidewalk had to be installed on the

existing developed parent lot. She doesn't think it is fair for the City to require sidewalks to be installed on the parent lot/remainder parcel. In the event that at some point in the future a sidewalk is put in on the entire block, then she would certainly participate as required by the sidewalk plan. In June 2002 she created a mini-subdivision and the City Council allowed her to record on the deed a Notice of Obligation to Install Sidewalks. It stated that the City Council concluded it would not be in the best interest of the neighborhood for one lot on said block to be fronted by sidewalks until such time as sidewalks are installed along the entire block.

Councilmember LaBau said Hyrum City's current sidewalk policy requires some property owners to pay for sidewalks and not others, even though everyone uses the sidewalks. He recommended tabling Bonnie Nielsen's request to waive the requirement for sidewalks until the City Council has an opportunity to review the existing sidewalk policy to determine if the City wants to maintain and upkeep all of the sidewalks shown on the plan, and if there is a fair way to assess a sidewalk fee to all residents.

Councilmember Miller asked if the parent property is included in the mini-subdivision. Section 16.28.010 of the Hyrum City Municipal Code states that a mini-subdivision involves dividing a parcel of land into three or less lots, including the parent property, in which the subdivided lots are on a paved, dedicated City street.

Councilmember Rasmussen said the parent lot is included in a mini-subdivision and has to meet the same requirements as the other lots being created by the mini-subdivision.

Bonnie Nielsen said Resolution 00-16 states the City recognizes mini-subdivisions may be built along streets scheduled for sidewalks at some time in the future and that sections of sidewalk in the middle of a block may not be appropriate at the time the property is divided.

Councilmember Rasmussen recommended that Bonnie Nielsen's request to waive sidewalks for her mini-subdivision be tabled until the City Council reviews and amends the current sidewalk policy. If the mini-subdivision is approved tonight then she would have to comply with current City policies.

ACTION

Councilmember Miller made a motion to table Bonnie Nielsen's request for approval of a two lot mini-subdivision until the next City Council meeting so that the City Council has an opportunity to review the existing sidewalk plan and amend it if necessary. Councilmember LaBau seconded the motion and all five councilmembers voted aye.

INTRODUCTION AND ADOPTION OF A RESOLUTION AND ORDINANCE:**RESOLUTION 08-28 - A RESOLUTION AMENDING HYRUM CITY'S DESIGN STANDARDS AND CONSTRUCTION SPECIFICATIONS FOR PUBLIC WORKS CONSTRUCTION IN HYRUM.**

Mayor Howard said City Engineer Craig Neeley and the Public Works Department is recommending amending some of Hyrum City's Design Standards and Construction Specifications for Public Works Construction in Hyrum.

Councilmember Rasmussen said he reviewed the proposed amendments to Hyrum City's Design Standards and Construction Specifications and does not think it is necessary to list a minimum cement in sacks/c.~~vy~~. in Section 4.16.3 Concrete Mix. The specifications list a minimum 28-day strength test (psi) for all three classes of use.

AMENDED
09-18-08

ACTION

Councilmember LaBau made a motion to approve Resolution 08-28 amending Hyrum City's Design Standards and Construction Specifications for Public Works Construction in Hyrum with the following amendment to Section 4.16.3 delete the minimum cement (sacks/c.~~vy~~. column. Councilmember Miller seconded the motion and all five councilmembers voted aye.

AMENDED
09-18-08

ORDINANCE 08-21 - AN ORDINANCE ADDING SECTION 9.52.035 TO THE HYRUM CITY MUNICIPAL CODE TO PROHIBIT SMOKING IN HYRUM CITY'S PARKS, RECREATIONAL FACILITIES, AND CEMETERIES, AND NEAR MASS GATHERINGS.

Mayor Howard said due to health risks associated with second hand cigarette smoke the Bear River Health Department is recommending every City in Cache County adopt an ordinance prohibiting smoking in parks, recreational facilities, and cemeteries, and near mass gatherings.

ACTION

Councilmember James made a motion to approve Resolution 08-31 adding Section 9.52.035 to the Hyrum City Municipal Code to prohibit smoking in Hyrum City's parks, recreational facilities, and cemeteries, and near mass gatherings. Councilmember Rasmussen seconded the motion.

Councilmember LaBau said he is not an advocate of cigarette smoking, but he is concerned about the definition of a mass gathering. A mass gathering is defined as an outdoor assembly of 50 or more people on city-owned property that reasonably can be expected to continue for at least one hour. According to the definition of a mass gathering it would prevent people from smoking along the parade route, at a rodeo, or other outdoor

events.

AMENDED

10-02-08

Councilmember ~~Rasmussen~~ LaBau said the proposed ordinance is too restrictive. It prohibits someone from holding, possessing, or carrying a cigarette of any kind in public places.

Mayor Howard called for a vote on the motion and Councilmember James voted aye and Councilmembers Felix, Miller, LaBau and Rasmussen voted nay. The motion failed.

OTHER BUSINESS:**CONSIDERATION AND APPOINTMENT OF LIBRARY BOARD MEMBERS.**

Councilmember Martin Felix recommended the appointment of Teryl Bodily - Hyrum, Marci Bingham - Hyrum, and Shannon Horrocks - Wellsville to each serve a three year term on the Hyrum City Library Board.

ACTION

Councilmember Miller made a motion to appoint Teryl Bodily, Marci Bingham, and Shannon Horrocks to each serve a three year term on the Hyrum City Library Board. Councilmember LaBau seconded the motion and all five councilmembers voted aye.

CONSIDERATION AND APPROVAL OF A COOPERATIVE AGREEMENT FOR TRAFFIC SIGNAL LOCATIONS ON HIGHWAY 165.

Mayor Howard said based on the findings of the SR-165 Transportation Corridor Study an agreement has been written to identify and stipulate the locations of existing and future traffic signal installations and access management techniques. This agreement identifies SR-165 and 300 South in Hyrum as a site for a future traffic signal when warranted.

ACTION

Councilmember LaBau made a motion to approve the Cooperative Agreement for Traffic Signal Locations on Highway 165. Councilmember Rasmussen seconded the motion and all five councilmembers voted aye.

CONSIDERATION AND AWARD OF BID FOR 800 EAST SIDEWALK PROJECT

Mayor Howard said the City received five bids for the 800 East Sidewalk Project on September 11, 2008. The bids were as follows:

<u>Bidder Name</u>	<u>Amount</u>
Geneva Rock Products, Inc.	\$21,775.00
Marsh Construction	\$26,766.75
<i>Consolidated Paving & Concrete</i>	<i>\$18,395.00</i>

Wasatch West Contraction	\$22,225.65
Lundahl Building Systems	\$21,860.63

The City Engineer's Estimate was approximately \$45,000.00.

AQUA Engineering, Inc. has contacted several of the references provided by the project low bidder, Consolidated Paving & Concrete, Inc., of Ogden, Utah. All had positive recommendations. Based on these comments and positive work experience AQUA Engineering has had with this contractor in the past on the 400 West Sidewalk Project, it is recommended that the project be awarded to Consolidated Paving & Concrete, Inc., in the amount \$18,395.00.

The contract may be increased to utilize funds previously committed by UDOT for this project by adding additional sidewalk to the scope of work. This request is currently being reviewed by UDOT. The increased amount should be negotiated with the contractor prior to any work being started.

ACTION

Councilmember Rasmussen made a motion to accept Consolidate Paving & Concrete, Inc.'s bid for \$18,395.00 for the 800 East Sidewalk Projects, and since the bid came in lower than expected City staff should ask U.D.O.T. if the remainder of the grant could be used on another project and if so have City staff coordinate it with U.D.O.T. Councilmember James seconded the motion and all five councilmembers voted aye.

AMENDED
10-02-08

DISCUSSION ON OFF-HIGHWAY VEHICLE USE ON PUBLIC STREETS AND/OR HIGHWAYS.

Mayor Howard said the Senate passed a bill to allow street legal all-terrain vehicles on designated certain streets and highways. The bill allows municipalities with a population of less than 7,500 people to adopt an ordinance designating certain street and highway under their respective jurisdiction as open for street legal all terrain vehicle use; open for general off-highway vehicle use; or open for limited off-highway vehicle use to allow off-highway operators to gain direct access to or from a private or public area open for off-highway vehicle use.

The City Council did not act on this issue.

MAYOR AND CITY COUNCIL REPORTS.

Councilmember Felix thanked Mayor Howard for the opportunity to attend the ULCT Fall Conference in Salt Lake.

Councilmember Miller said the Youth Council is helping with the

Top of the Utah Marathon on Saturday at 6:00 a.m.

ADJOURNMENT:

ACTION **There being no further business before the Council, the Council Meeting adjourned at 7:50 p.m.**

W. Dean Howard
Mayor

ATTEST:

Stephanie Fricke
City Recorder

Approved: October 2, 2008
 As Amended