

City of Rigby  
Council Meeting Minutes  
January 4, 2024

Work Meeting:

Those in attendance: Sam Angell, Mayor Datwyler, Tim Howe, Tonya Hillman, Reed Stone, Val Orme, Becky Harrison, Mitch Bradley, Ione Hansen, and Allen Fullmer.

Work meeting was opened by city attorney, Sam Angell, at 6:08p.m. The purpose of the meeting was to review the responsibility and obligation of the city council to use in rendering a decision on land use items and more particularly the one coming before the council this evening. He reviewed the differences between a councilmember's legislative role and that as an impartial tribunal. Under the legislative role council members can interact with the public on any items that affect the entire population. Items generally include rates and ordinances affecting the entire city. Whenever decisions are to be made concerning only a particular person then council members are discouraged from any interaction with the public. The council in these circumstances are sitting as a judge and will be receiving testimony and evidence on which to base their decision. You are further restricted from making your own investigation into the matter and should only look at the information brought to you during the public hearing. You can review the city code that relates to the issue and make an inquiry to the staff, be it Mitch or Ione. You should not visit the site other than what you have prior to the notice of land use change. And you should not discuss the item among yourselves. If a person were to approach you and begin stating information to you concerning the item, you should stop them and ask them to come to the meeting and make the information known to all the council. He then proceeded with a question-and-answer session. One question arose was for the newly elected member yet to be sworn in who received information. The attorney responded that the member should make that fact known to the public during the hearing and state what information they received. Opinions not based on city or state code are not appropriate being you swore to uphold and enforce the constitution and statutes of the state and those of the city.

Regular Meeting:

Mayor Datwyler called the meeting to order at 7:00 pm Thursday, Jan 4, 2024. The pledge of allegiance was given by Aliza King, and the prayer given by himself.

The mayor asked the clerk to call the roll:

Councilman Orme	Present
Councilwoman King	Present
Councilwoman Harrison	Present
Councilman R. Burke	Present via phone
Councilman Wilder	Present via phone
Councilman D Burke	Absent

Also in attendance: Mitch Bradley, Chief Fullmer, Ione Hansen, Attorney Angell

Review and Approval of Minutes:

Councilwoman King moved to approve the minutes of December 21, 2023, seconded by Councilman Orme.

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

Review and Approval of Bills:

Councilwoman King moved to approve the bills seconded by Councilwoman Harrison.

The mayor asked the clerk to call the roll:

Councilman Orme	Yes
Councilwoman King	Yes
Councilwoman Harrison	Yes
Councilman R. Burke	Yes
Councilman Wilder	Yes

Retiring Council Member:

The mayor presented outgoing council member Aliza King with a plaque of appreciation for her service on the city council.

Swearing In New Council:

The mayor requested the presence of Tim Howe, Tonya Hillman, and Reed Stone to step forward as he administered the oath of office to each new council member individually. Furthermore, he requested that they assume their positions at the council table.

Public Comment:

Wayne Rogers came forward and asked when the city attorney was going to respond to him concerning the case he has against the city and when the attorney was going to make an appointment with him.

Public Hearing – Lakeside Development:

The mayor reviewed procedure for conducting and commenting during the public hearing. The city code for holding a public hearing was printed on the flip side of the agenda. He then turned to the council and asked if any had any ex parte communication to disclose. Tonya Hillman said she had been contacted by a resident and given maps and council minutes regarding the development. Following this, Tim Howe revealed that he had received maps and information from a resident regarding the development.

Kurt Rowland from Eagle Rock Engineering came forward and reviewed the preliminary and final plat for the Lakeside Development. The plat is for 17 acres of R-2 and R-3 development and 26 acres of commercial development. The section of the plat being considered, and final is for 7 acres for a planned unit development (PUD) consisting of 112 units in a R-3 zone with 41 visitor parking spaces. The code for a residential PUD is for a minimum 3 acres, the site has 7 acres. Rowland reviewed the code for open green space: code requires 10% open green space the council asked that the space be increased to 30%, the actual percentage is 37.84%. The code provides for a minimum of 2 parking spaces with one space being covered. Each unit will have two parking spaces for two cars and one inside the garage for a total

of 336 parking spaces. Visitors parking requires 10% of the number of units, 112, or 11.2 visitors parking. The actual spaces for visitors are 41 with 4 handicap stalls included. The county has requested turn lanes on Annis Hwy and on 460 which have been included. They also request a roundabout be constructed on Rigby Lake Drive when the commercial is developed.

In Favor:

Mark Williams – need more homes of this type. Currently lives in Rexburg but Rigby needs more multifamily homes, not everyone can afford a single-family home.

Neutral:

Mark Taylor – City has not annexed all the roads on the perimeter or bridges. Reviewing the draft of the development a couple of the conditions need clarification.

Mike Carter – Nothing to say.

Opposed:

Clark Millett – concerned with the site plan showing the ditch that is currently on the site plan is going to be moved. Users of the ditch have not given consent to moving it per required by Idaho Code Title 42 chapter 12.

Trent Boyce – the number of units has changed, increasing from the prior plan and not enough dumpsters to service the needs of the development.

Nancy Mahoney – Density does not comply with code title 10 chapter 11, parking must meet the requirements of R-3 zone, number of units will only add to congestion on the existing roads. Needs to follow city's comp plan policy #1 and #2.

Justin Deumerier – stated he was opposed.

Kathy Erickson – current plan doesn't follow previous plans, suggested too high of density for site, parking will be issue and no discussion on fencing. On going issue between city and county on Rigby Lake Drive.

Barbara Muggleston – Read off several violations in the comp plan, city code and the recording of development agreement prior to passage of final plat (1-15-5).

Bryon Muggleston – concerned the green space includes the area behind the units being assessable by all individuals.

Michelle Fackrell – referenced the comp plan providing a wholesome place to live.

Marie McLean – presented a poster board of the various plans the developer had presented during the prior meetings. Over the course of the process the plans and number of units keep changing. Concerned with access onto the three county roads and who will be responsible for them.

Tom McLean – declined to comment.

DJ Hodges – feels the concerns presented by the residents are not being addressed by the council and not addressing violations as cited by the residents.

Rebecca Jones – concerned with coordination with county on the roads, annexation of roads needs to be completed, access to 460 is too congested, berms and fencing not being addressed.

Mandi Peters – discussion tonight is on the final plat but nothing is being said about the preliminary plat as mentioned at the beginning of the hearing.

Public comment period closed.

Rebuttal:

Kurt Rowland - The property has been annexed and zoned into the city. Each section of the development – R-3 and commercial zones have followed the guidelines cited in the city code. There have been several plat changes which were made after each public hearing to accommodate the wishes of the residents. Dumpsters and the number of dumpsters has been reviewed with the city who suggested the number and location of them. If they need to be emptied more often the HOA contract to have them dumped. The developers have been in contact with the canal company and have a letter from the canal allowing the relocation of the ditch without any restriction as to water flow. The roads that border the development will be widened according to the city code.

Council Discussion:

Councilwoman Harrison – expressed concern over the ditch issue.

Mayor- the council is concerned and has answered the concerns expressed by the residents. The council double checks the code with the development to ensure compliance.

Councilwoman Harrison – asked about the development agreement being recorded. Lone Hansen stated she has followed the prior process, plat then development agreement with conditions as directed by the planning zoning commission and council. The attorney reviewed the city code 1-15-5 and stated the filing of a development agreement prior to the acceptance of a plat make no sense as conditions may change. The council is following the correct process in plat adoption followed by a development agreement being properly signed and agreed to by the city and developer.

The easement of 50 feet was given in the road study on 460.

Councilwoman Hillman asked again if the parking conforms with the R-3 zone, lone indicated yes.

Mayor – the city/county has a joint area of impact committee.

Councilman Stone – reviewed the code for R-3 zone for parking. Kurt Rowland addressed his concern with each townhome will be single car garage with two parking stalls in front and each duplex will be double car garage.

Councilman Orme –asked if the conditions stated by the planning zoning commission have been fully implemented in the draft copy of the development agreement, one concern street names. Ione said the plat changed the names so those have been addressed as for the other concerns yes, they have been addressed and included in the development agreement.

Councilman Howe – asked what the policy for the maintenance of the roads between city and county is. The attorney mentioned that the process is still in negotiation with the county. He additionally mentioned that he had requested Mr. Taylor to refrain from addressing the road matter tonight due to its jurisdictional complexities involving both the city and county. However, he acknowledged Mr. Taylor's right to express his thoughts on the issue.

Councilwoman Hillman asked why the turn lane on 460 did not run the entire length of the road. Ione answered the turn lane off Annis Hwy was cut at the request of the county to begin at the intersection from the development through Rigby Lake Dr intersection, running parallel with the commercial zone. The county felt having a turn lane at the intersection of 460 and Annis Hwy.

Councilman Howe asked about the easements and city standards between county and city.

Councilman Stone asked if the water rights have been turned over to the city. Ione answered they have been.

Mayor stated he has reviewed other cities density per acre and Rigby's are the most inclusive with 16 buildings, other allow more buildings per acre. In fact, the development could have two more buildings than being plated.

Councilman Howe going down a checklist commented the developer will pay for all road upgrades applicable to its development.

Councilman Stone asked about the berm on 460. Kurt Rowland indicated the berm would be 3 to 4 foot high with trees.

Councilwoman Harrison reviewed the development of a berm on 460 and felt the language was vague. The attorney reviewed the draft and added the phase subject to the exact dimensions of the berm will be finalized in connection with the future development agreement upon application for use on the commercial portion of this development.

Councilman Orme felt the development meets all current city codes.

Councilman Wilder commented that he feels the development meets current city code. However, those in opposition to the development need to voice their concern during the zoning as this is the time to review what can and cannot be built and not during the plat hearing.

Councilman Howe commented that the roads discussion would be completed but at the present was a timing issue.

The attorney reviewed the three changes he'll be making in the development agreement:

- K- subject to application of development on the commercial zone
- M – all roads will be built per width on engineer drawings
- R- adding the word bridge and who is responsible (city or county)

Councilwoman Harrison moved to approve the final and preliminary plat as meeting all city codes subject to changes in the development agreement seconded by Councilman Orme.

The mayor asked the clerk to call the roll:

Councilman Stone	Yes
Councilwoman Hillman	Yes
Councilman Howe	Yes
Councilwoman Harrison	Yes
Councilman Orme	Yes
Councilman Wilder	Yes

The mayor called for a recess: 10:08p.m.

Back in session:

Councilwoman Harrison moved to table item #6 recognize the council and set committee assignments. Seconded by Councilman Howe.

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

#### Road Report:

The clerk presented the 2022 road report. Councilwoman Harrison moved to approve and publish same seconded by Councilman Howe.

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

#### Executive Session – 74-206(f) discuss with counsel pending legal issues:

Councilwoman Hillman moved to enter executive session per Idaho Code 74-206(f) to discuss with counsel pending legal issues seconded by Councilman Stone.

The mayor asked the clerk to call the roll:

Councilman Stone	Yes
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Councilwoman Hillman            Yes  
Councilman Howe                Yes  
Councilwoman Harrison        Yes  
Councilman Orme                Yes


Council enters executive session: 10:10 p.m.  
Council exits executive session: 10:21 p.m.

Adjournment:

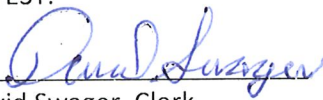
Councilwoman Harrison moved to adjourn seconded by Councilwoman Hillman.

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

CITY OF RIGBY

  
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Richard Datwyler, Mayor

ATTEST:

  
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David Swager, Clerk