

City of Rigby
Council Meeting Minutes
October 6, 2022

The Mayor Datwyler called the meeting to order at 7:00 pm Thursday, Oct 6, 2022. The pledge of allegiance was given by Roarke Burke and the prayer given Aliza King

The mayor asked the clerk to call the roll:

Councilman D Burke	Present
Councilman Orme	Present
Councilwoman King	Present
Councilman Wilder	Present - Arrived 7:03pm
Councilwoman Harrison	Present
Councilman R. Burke	Present

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

Public Comment:

Randy Green – presented the council with the ball field signs naming the two ballfield after Kent Geisler and Jack Hawkins. He would like to have a date set for the dedication of the two ballfields to inform the families of the two individuals so they can be in attendance.

Compliance with Sanitation Franchise Ordinance:

Kim Galloway owner of Eagle Rock Sanitation stated there were two businesses (Jefferson County and Wicked Car Wash) that are in violation of the city's franchise ordinance wherein they have contracted with Choice Sanitation to haul their garbage. Under state code (50-344) the city can designate and contract via a franchise ordinance with a single company to haul and collect the city's garbage within the city. Patron/residents cannot elect to have their trash hauled off by other vendors. The council asked Mr. Dunn what he has done to remedy the problem. Mr. Dunn responded that he has attempted to work through an informal process in discussion and sent letters to the owners of Wicked Car Wash and also a copy of the letter was sent to Choice Sanitation. He has talked with one county commissioner but not to the full board.

After discussion: Councilwoman Harrison moved the attorney get on the Oct 17, 2022 county commissioners' agenda to discuss the issue; to send a cease and desist letter to Choice; gather evidence of who's dumping the trash at Wicked Car Wash; request billings from the county to vendors paid. Motion seconded by Councilwoman King.

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

Public Hearing-Zone Change R&S Properties:

The mayor opened the public hearing with a brief review of the procedure that would be followed. Kurt Rowland, representing the owners came forward for the applicant. Mr. Rowland reviewed the proposed zone changes on the property from R-1 to R-2 and R-3. He stated the zone complies with the city code and the city's comp plan. He stated the p/z commission did not cite specific reason as to why the zone change request was denied.

In favor: Kurt Rowland/Kipp Manwaring – deferred at this time.

Neutral: None

Opposed:

- Robert Dinsdale: referred that the original sales agreement stated in the agreement that the property would never be changed from an R-1 zone (single family). Prior to changing the zone the council needs to have in hand a traffic study, impact study and an upgrade of the infrastructure.
- Deanna Dinsdale: the site lacks access to other roads with 5th West being the sole road from which traffic will enter or leave the property.
- Barry Lewis: over 40 residents have signed a petition opposed to the development – he reads the language contained in the petition. Cited the prior sales agreement issued by Don/Nina Sucher. Need to consider the comp plan regarding property rights and the effect on property values.
- Laurie Stone – voiced her opposition
- Juanita Oliva: current resident living in Caribou apartments, which lacks adequate parking.
- Barbara McMurtrey: there is an overcrowding of schools and this development would only add to the overcrowding. R-2 and R-3 zones have more incidents of police calls.
- Reed Stone: Need to follow comp plan with it not have any adverse effect on property values, safety, and consideration of quality of education which Harwood has one of the lowest rates.
- Julie Stone: Declined to speak.
- Roger Stone: Comp plan needs to follow the R-1 zone. Access to Hwy 48 is restricted and limited. Need to correct 5th West which the developer needs to pay the cost of correcting it. City has sufficient high density housing currently within the city.
- Dave Grant: needs to have an upgrading of the infrastructure which will be a financial burden on the city. Need to have impact fees imposed. School district is struggling with the current growth and being a current school board member, the city needs to slow down the growth occurring within the city and allow for more building of schools to catch up with the population.
- Jeremy Hansen: 5th West needs to be widened with the high density being proposed. Need to follow comp plan.
- Joetta Juenke: Rigby is becoming a city with high density. City needs more R-1 homes that have skin in the game. High density apartments do not have skin in the game.
- Steve Woodhouse: Agrees with the prior speakers and what was said and is opposed to the R-2/R-3 zone change.

End of opposition

Rebuttal:

- Kurt Rowland – development will not have impact on water/sewer. A traffic plan/study will be done in the platting phase of the development. Current R-3 zone regulation allows for a max of 16 units per acre but with the green space, off street parking and roads there will not be 16 units per acre. The city has made changes in the R-2/R-3 zones since the build out of Caribou. High density housing do have “skin in the game” and they pay double in property taxes than do single family homes.
- Kipp Manwaring – Any sales restriction as referred to in a prior sales agreement is not an enforceable restriction, if it does exist. Prior applications were in compliance with the comp plan. The first application made showed a zone of R-2 from a map he presented the council. The planning/zoning commission did not cite or identify a cause and reason for the denial of zone change. An appeal from a board is always available. *(Note: the map presented was*

dated December 1998 at which time the property was in the impact area but not in the city. The property was annexed into the city in 2009 with an R-1 zone.)

Council Discussion:

- Councilman Wilder: He did attend the p/z meeting and reasons were cited for the denial-housing and impact on schools.
- Councilwoman Harrison: Her study of the comp plan shows analysis and evaluation of the shows the change in zones does not fit the comp plan.
- Councilman Orme – asked what the current zone is.
- Councilman D Burke: Needed time to consider this beyond this meeting.
- Councilwoman King – concern with roads and safety of kids.
- Councilwoman Harrison – Comp plan cites affordable housing city wide not just this development. Has issue with the R-3 zone prefers R-2 over R-3 for this.

Councilwoman Harrison moved to deny the application for zone change for not complying with comp policy #1, property rights; policy #2 impact on schools, policy #3 impact on property values have identified policy on housing in policy #1 and #2. Motion seconded by Councilman Wilder.

The mayor called for a roll call poll with reason for decision:

Councilman D Burke:	Abstained – need time to review
Councilman R Burke:	No
Councilwoman King:	Yes- prior action by p/z commission
Councilman Orme:	Yes
Councilwoman Harrison:	Yes –
Councilman Wilder:	Yes – reasons as stated in the motion; impact on school

Mayor called for a recess: 8:56pm

Mayor called council back into session: 9:08pm

2nd Reading Ordinance #2022-630 – Annex/zone Southgate Property:

Councilwoman King moved to read Ordinance 2022-630 in title and summary only seconded by Councilman Orme.

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

The mayor reads ordinance 2022-630 in title and summary.

1st Reading of Ordinance 2022-631 – Rezone of Old School Property:

The old school property on 1st West was sold and a zone change was affected from school to commercial which was approved May 16, 2019 thru a public hearing but an ordinance was never made.

Councilwoman King moved to read Ordinance 2022-631 in title and summary only seconded by Councilman D Burke.

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

The mayor reads ordinance 2022-631 in title and summary.

Councilwoman King moved to waive the second and third reading and to publish same and approve seconded by Councilwoman Harrison.

The mayor called for a roll call poll:

Councilman D Burke: Yes
Councilman R Burke: Yes
Councilwoman King: Yes
Councilman Orme: Yes
Councilwoman Harrison: Yes
Councilman Wilder: Yes

Review of August 2022 Financial Statements and Journal Entries:

The clerk gave a brief review of the excel spreadsheet of the budget vs. actual revenues and expenditures. He noted no area of concern: revenues were mostly higher than budget and expenditures to date were lower than budget. Journal entries were routine accrual of interest and posting of internal charges and credits.

Quarterly Transfers of Funds:

The clerk presented a summary of the 4th quarter of interfund transfers for reimbursement of expenses incurred on behalf of the three enterprise funds. The transfers were as follows:

<u>Fund</u>	<u>To</u>	<u>From</u>
General Fund	18,750.00	
Water Revenue		6,250.00
Sanitation Fund		6,250.00
Sewer Revenue		6,250.00

Councilwoman Harrison moved to approve the interfund transfers seconded by Councilwoman King.

The mayor called for a roll call poll:

Councilman D Burke: Yes
Councilman R Burke: Yes
Councilwoman King: Yes
Councilman Orme: Yes
Councilwoman Harrison: Yes
Councilman Wilder: Yes

Renewal of Health Insurance Policy:

The clerk presented various options for health insurance coverage for the coming year. The rate to continue with the Regency policy similar in benefits/coverage as in prior years had a 2.07% increase in overall rates. Other carriers were presented and discussed.

Councilwoman King moved to renew the Regency policy for the two options of 2750 and 4000 seconded by Councilman Orme.

The mayor called for a roll call poll:

Councilman D Burke: Yes
Councilman R Burke: Yes

Councilwoman King: Yes
Councilman Orme: Yes
Councilwoman Harrison: Yes
Councilman Wilder: Yes

Authorize Police Dept Doors Control Locks:

Chief Fullmer reviewed two proposals he had received to install two controlled door lock systems on the police department building. The two proposals were from Omni -\$5,984 and Perfection Data - \$9,995. Fullmer stated both systems are similar in operation and he had not preference to either.

Councilwoman King moved to accept the Omni Security proposal for \$5,984 seconded by Councilman Orme.

The mayor called for a roll call poll:

Councilman D Burke: Yes
Councilman R Burke: Abstained
Councilwoman King: Yes
Councilman Orme: Yes
Councilwoman Harrison: Yes
Councilman Wilder: Yes

Golden Valley Meat/Game:

Golden Valley has presented Chief Fullmer with an offer to sponsor a drug dog. The offer of sponsorship was dependent upon the city obtaining cost estimates for the acquisition, training of dog and officer and other related costs. The chief mentioned the first year's costs would be around \$100,000 based on information he obtained from the county. He stated two officers have indicated their willingness to be a K-9 officer. He stated the two needed to obtain the necessary basic training and provide a committed of at least two years to serve.

The council gave verbal consent with instructions that the chief come back with the costs are requested by Golden Valley for the council to review and to see if the sponsorship could be delayed for later in the year or to 2023.

Approval of Traffic Enforcement Grant:

Chief Fullmer has received a renewal for the city to participate in the ITD enforcement grant program. Police officers work off hours on various incentives to monitor and enforce specific enforcement areas of concern. The city has participated in this program for a number of years.

Councilwoman King moved to approve and authorize the city police department participation in the traffic enforcement program seconded by Councilman D Burke.

The mayor called for a roll call poll:

Councilman D Burke: Yes
Councilman R Burke: Yes
Councilwoman King: Yes
Councilman Orme: Yes
Councilwoman Harrison: Yes
Councilman Wilder: Yes

Limitation of Keller Engineer Insurance Liability:

Marvin Fielding from Keller came forward and stated the grant awarded the city from the state's ARP funds required the engineering firm to have liability insurance equal to twice their fees (\$3.4million). Keller's was not aware of this dollar amount when they submitted their proposal. They have recently raised their coverage from \$2 million to \$5 million. Keller is requesting a waiver for double the fees. For Keller to have the \$6.8 million coverage it would cost the city an additional \$40,000 to pay Keller for the added coverage. It would require Keller Associates to amend the agreement with the City to increase the limitation of their liability and the City would have to agree to pay for the additional coverage. Council discussed the added fee involved and recommend Keller seek a waiver from DEQ and have the agreement of liability coverage stated at \$5 million. Item tabled pending letter from DEQ.

Wastewater Treatment Plant Grant from DEQ:

Rick Miller from the Altura Group present the council with an agreement for the city to approve the grant offer. Included in the agreement was the paragraph stating the engineer's liability to be twice the incurred engineer fee (\$3.4 million). The clerk stated it would be best to wait to have the consent from DEQ to lower the engineer liability coverage and change the contract to reflect the revision than to sign the agreement then attempt to amend the agreement later. Being the agreement can be delayed the topic was tabled pending the written decision from DEQ.

Update on WWTP Project:

Mr. Miller from Altura Group presented the council with a spreadsheet on the costs to date of the WWTP sewer project. The city has paid out of its reserves a total of \$2.6 million. A grant of \$673.330 from the Army Corp of Engineers has been received. Total expenditures to date total \$3.4 million out of the \$26 million project.

LID #10 – Issues and Update:

The council received an update on the status of LID #10 and unresolved issues. One on Tall Ave has had water flooding their basement due to a sprinkler line being cut and not repaired. The line was cut by a separate contractor when they installed a window well in the basement. Avail Contractors in checking the sprinkler system turn them on and failed to turn them off causing the water to flood the basement. Avail Contractor's insurance carrier has written a letter denying any responsibility. Keller has written a response letter to Avail holding Avail responsible for the damages incurred due to neglect on their end. Several homes on 4th North have recurring landscaping/sprinkler issues that are still being worked on to correct.

Discussion on the penalty being initiated against Avail was discussed. The company has failed to complete the project within the number of days allowed and stated in the contract. Total today total \$79,500. It was decided that the end date of liquidated damages end October 3, 2022. Mr. Bradley however wanted the warranty on the landscape/sprinklers extended to April 2023.

Councilwoman King moved to suspend and close the contract with Avail on October 3, 2022 seconded by Councilman Orme.

The mayor called for a roll call poll:

Councilman D Burke: Yes
Councilman R Burke: Yes

Councilwoman King: Yes
Councilman Orme: Yes
Councilwoman Harrison: Yes
Councilman Wilder: Yes

Purchase of WWTP Equipment:

The bearing in the headworks facility has gone out and needs to be replaced. The company supplying the bearing, Westech, has quoted the replacement bearing at \$12,445.

Councilman Wilder moved to authorize the purchase of the bearing in the amount of \$12,445 seconded by Councilwoman King.

The mayor called for a roll call poll:

Councilman D Burke: Yes
Councilman R Burke: Yes
Councilwoman King: Yes
Councilman Orme: Yes
Councilwoman Harrison: Yes
Councilman Wilder: Yes

Approval and ratification of Mayor's Signing RSCI contract:

The mayor stated he had erred in signing the contract presented to him by Keller's last Monday evening without first having council's approval or review done by the attorney. With that being said he then asked the attorney for his comments. The attorney reviewed and commented on the percentage of retainage; interest on late payments; addendums not included in contract; written notice to engineer of errors, conflicts, ambiguities and other discrepancies not being presented and progress payments. Mr. Fielding replied to the concerns and provided answers.

Councilman Orme moved to ratify and approve the contract as signed by the mayor for RSCI on the wastewater project seconded by Councilwoman King.

The mayor called for a roll call poll:

Councilman D Burke: Yes
Councilman R Burke: Yes
Councilwoman King: Yes
Councilman Orme: Yes
Councilwoman Harrison: Yes
Councilman Wilder: Yes

Question arose as to the "notice to proceed." Neither the mayor nor Keller recalled having council approval for this to be issued. The clerk recommended the council to move to approve the notice to proceed.

Councilwoman King moved to authorize the mayor signing the notice to proceed with RSIC seconded by Councilman Orme.

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

Water Study Update:

Councilwoman Harrison moved the water study update be tabled and carried over to the next council meeting seconded by Councilwoman King.

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

Amend Material Testing Contract:

The council had previously given the responsibility of coordinating the schedule of the various material testing be administered by Mr. Bradley. When the prices were submitted from the various testing companies they all came in higher than expected due to the number of tests being performed was unknown. Due to the amount of testing and the timing of when the tests would done, it was felt by Keller that the contractor would have better control and be held to the dollar stated in his contract. Council discussed the reason and felt it may be best to do a change order based on what Keller reported.

Councilman Orme moved to allow for a change order with RSCI to modify their contract to include material testing seconded by Councilwoman Harrison.

The mayor called for a roll call poll:

Councilman D Burke:	Yes
Councilman R Burke:	Yes
Councilwoman King:	Yes
Councilman Orme:	Yes
Councilwoman Harrison:	Yes
Councilman Wilder:	Yes

Other Council Business:

Oct 29 – Main Street Trick/Treat being held.

Review and Approval of Minutes:

Councilman Wilder moved to approve the minutes of September 15, 2022 seconded by Councilwoman King.

The mayor called for a voice poll: all in favor none opposed with Councilman R Burke and Councilwoman Harrison abstaining.

Review and Approval of Bills:

Councilwoman King moved to approve the bills of Oct 6, 2022 seconded by Councilwoman Harrison.

The mayor called for a roll call poll:

Councilman D Burke:	Yes
Councilman R Burke:	Yes
Councilwoman King:	Yes
Councilman Orme:	Yes
Councilwoman Harrison:	Yes
Councilman Wilder:	Yes

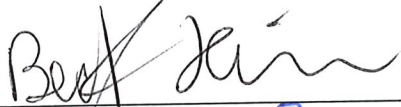
Adjournment:

Councilman Orme moved to adjourn seconded by Councilwoman King.


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

Meeting adjourned: 11:08pm

CITY OF RIGBY


Richard Datwyler, Mayor *Becky Harrison, Council Pres*

ATTEST:


David Swager, Clerk