

*CITY OF ST. ANTHONY  
COUNCIL MEETING MINUTES – July 8, 2009 – 7:00 P.M.  
420 NORTH BRIDGE, SUITE A, ST. ANTHONY, ID, CITY COUNCIL CHAMBERS*

**PRESENT:** Mayor Garth Rose, Councilmembers Bryant Biorn, Bryan Fullmer, Elva Powell, Woody Andersen, Bryan Stoddard and Rod Willmore.

**ALSO PRESENT:** City Attorney Bill Forsberg, Police Chief Jim Smith, Public Works Superintendent Scott Butigan, City Clerk/Treasurer Patty Parkinson, and approximately 31 interested citizens.

The meeting was called to order by Mayor Rose at 7:00 p.m.

**The PLEDGE OF ALLEGIANCE** was led by Paul Scoresby.

**GENERAL BUSINESS**

**Central School One Way – Val Hammond** – Val Hammond was not present.

**Planning & Zoning Casey Variance Recommendation** – Mayor Rose asked the council members for any comment. A motion to approve the request for the Anthony Casey Variance based upon the Findings of Fact and Conclusions of Law as recommended by the Planning and Zoning Commission was made by Councilmember Stoddard and seconded by Councilmember Willmore. All approved. Motion passed.

**Citizen Group Concerns Regarding the Safe Route to School Pathway** – Gary Bidwell, 555 East Yellowstone, was introduced as the representative of the citizen group wishing to speak with the council. Bidwell took to the floor having questions for the council. Bidwell asked if there wasn't a need for a public notice when this kind of construction takes place. Clerk Parkinson said that she contacted the prior clerk and learned that because the construction takes place on state right of way public notice is not required. Bidwell did say that the residents were given a letter back in September of 2008. He read that letter out loud. Bidwell said that he came down to get a plan and he said he was told by the receptionist that she didn't know what this was about. Bidwell suggested that the city put up signs like the county does to inform the residents. He wanted to know if the walk way could be set up on the other side of the street on the south side. This would create a cross walk across Bridge Street to the elementary schools. Bidwell brought many photos to show the councilmembers. Bidwell asked why the width of the path is 10 to 12 feet wide. Paul Scoresby of Schiess & Associates then stood up and said the path was designed to be 12 feet wide and is now ready to be constructed at 10 feet wide. Scoresby also showed him a copy of the plans. These plans were done in April of 2009 and prior to that the application had a drawing indicating the proposed pathway. The preliminary grant application was turned in last year. Scoresby said that the state will allow the city to place it on the other side of the road. The state is allowing the city the use of the right of way as long as it is beyond 12 to 14 feet of the existing asphalt edge. Bidwell said the river walkway is five feet and the ten foot walkway would attract motorists making it look

drivable. Bidwell wanted to know who would maintain between the road and the pathway. Scoresby said that the Idaho Transportation Department has no sympathy for improvements in their right of way. Those that choose to maintain that may do so, as is currently being done now. Scoresby also said that the width of pathway standards has changed and what was common a few years back for a five foot pathway is no longer the standard. Bidwell said that the flowers are very nice and that the beatification the city does has been done on the south end of town and nothing on the north end. The residents have done the work themselves on the north end. Bidwell said that he agrees that there needs to be a ten foot wide path from Broulim's on. He questioned having the need for a ten foot path for the entire distance. He had a map showing the different properties and the owner's sprinkler systems that will need to be moved and replaced. On the south side of the street, none of that has been improved and so there wouldn't be a need to replace sprinkler systems. Bidwell said there are nine driveways for the kids to cross and he sees that as a danger as the owners are used to backing out. Bidwell showed a picture of his intersection and said that there is already an existing sidewalk that could be connected to the pathway. Bidwell wanted to know who would be responsible to pay for watering the grass, mowing and upkeep and if the sprinkler systems would be eliminated. Bidwell thought that by placing crosswalks from the north side to the south side would slow down traffic. Bidwell did say that he would like his sod if the city were to move ahead and dig it up. He said that one neighbor would spray his grass with "Round Up" so that the city couldn't use it anywhere else. Bidwell said that the street lights are on the other side of the street. There is only one on the north side of the street by the laundry mat. Bidwell said that there are also mailboxes that need to be considered. Bidwell said that if snow is plowed that the snow can not be plowed onto private property. Mayor Rose asked if any council member had questions. No questions were asked. Bidwell gave the map he made to Scoresby. Mayor Rose asked Scoresby to update council on what can be done. Scoresby said that the state does not care what side of the road the pathway goes. Attorney Forsberg said that the grant application is for a pathway on the north side of US 20. Forsberg asked if it wouldn't be a material change in the use of funds for the grant application and if any one has talked to the grant issuer. Scoresby said he spoke to Jeff Call, ITD Employee, and asked that specifically. Call is from Rigby. Scoresby said he'll have to go back to contact the grant issuing authority to find out that answer. Scoresby said the grant is set up in a unit price contract and there is a limit to the grant. Forsberg asked that in regards to the design what the estimated cost would be to make changes to the plan. Scoresby said that it would be \$500 to \$1000. Mayor Rose said that the city needs to contact the grant issuer and see if any changes can be made. Councilmember Fullmer said that this opens the door for the people on the other side of the street and we would have to start all over. Councilmember Stoddard said that we have children crossing over the state highway twice if it's moved to the south side of the street and that didn't seem like a safe route. Mayor Rose allowed for a few others to comment from the audience. Stoddard asked when Depatco was to start work. PWS Butigan said they are scheduled to start Monday. Forsberg asked if they have been mobilized and there is a possibility if we pull the start date there may be some contractual issues and if the grant is not completed then it would all come out of the city's pocket. Forsberg said our complete date is June 30, 2010. Scoresby said that he would like to meet with Butigan and Bidwell to discuss briefly but not in this venue. There are some details that Scoresby would like to get more acquainted with. Scoresby said there needs to be contact made with the grant issuer. Stoddard asked if a Depatco representative can also be

involved in this meeting. Scoresby said that he could come to a meeting. Scoresby said that ultimately, everyone wants to provide the safest path. A wider path will provide that level of safety. Fullmer said that they need something from Depatco to see if there is a cost to the city and the city can't afford to pay for labor that sits. Councilmember Andersen said that there have been no other alternatives discussed. He asked about the design. Mayor Rose asked that Scoresby get together with Andersen, PWS Butigan and Depatco tomorrow to get this resolved as quickly as possible. Stoddard said there is still some concern on how the children will cross the highway if the pathway were to be moved to the other side of the street. Crossing the highway is still a safety concern. Forsberg also said that the grant issuer would need to authorize moving it from one side of the street to the other, with safety being the biggest concern for those having to cross the highway. Andersen said that he went out and looked at the proposed path way. He said that sidewalks are placed in city right of way by the homeowner and maintained by the homeowner. Andersen explained his proposal in detail keeping the pathway on the north side of the highway. PWS Butigan wondered if the city can delay the completion time with Depatco and their contract, as they have an August 2, 2009 completion date. Scoresby said that Depatco has delayed for their own work schedule and there are a lot of questions there and he didn't know. Forsberg said that Andersen articulated a very viable solution with the pathway remaining on the north side. Councilmember Biorn made a number of comments saying that the owners were notified in 2008 and the city is already in a contract, the plans have already been laid out and ultimately the property that the citizens considered as their "their yard" is really state right of way. Biorn said that placing it on the south side of the highway makes the Safe Route to School less safe just by having children crossing the highway. Biorn said he is not ready to vote on anything "contingent". Bidwell said he thinks it would be safer to cross the highway twice than nine driveways. Fullmer said he didn't know how council can vote on anything until they find out if the grant issuer would even approve any changes. Biorn said that if Andersen's proposal could be a compromise and the path stayed on the north side and the contract stays in place then he doesn't have a problem with it. However, it may be too late to proceed in any other direction. Fullmer agreed. Mayor Rose asked that Scoresby contact the grant issuer in Boise, first thing in the morning, to see if any changes could be made to the grant. Then Scoresby, Butigan, Andersen and someone from Depatco will meet to discuss Andersen's suggestions with the path staying on the north side of the road. Stoddard said he was in agreement under the circumstances that it doesn't cost the city any more money. If it does the council needs to look at it again.

Mayor Rose requested a five minute break, after which he called the meeting back into order.

**Executive session pursuant to provisions of Idaho Code 67-2345(d) To consider records that are exempt from disclosure as provided in chapter 3, title 9, Idaho Code.** – A motion to move into executive session pursuant to provisions of Idaho Code 67-234(d) to consider records that are exempt was made by Councilmember Biorn and seconded by Councilmember Fullmer. A roll call vote was made with Councilmembers Fullmer, yes, Powell, yes, Andersen, yes, Biorn, yes, Stoddard, yes and Willmore, yes. Motion passed 6-0. Mayor Rose asked for the room to be cleared.

A motion to conclude the executive session was made by Councilmember Biorn and seconded by Councilmember Powell. A roll call vote was made with Councilmembers Fullmer, yes, Powell, yes, Andersen, yes, Biorn, yes, Stoddard, yes and Willmore, yes. Motion passed 6-0. Mayor Rose opened the meeting to the public.

**Resolution for closing the Sand Bar Park when there are high waters** - Mayor said that there is a resolution on the agenda for closing the Sand Bar Park and that item is now being tabled for further study.

**PUBLIC COMMENT** – Mayor Rose opened the floor for public comment.

Owen Hirschi, 615 West 4<sup>th</sup> North, commented on wanting to keep the Sand Bar Park open. He said if the city decides to close the Sand Bar Park access to swimming at a certain flow then what happens if there is an accident at a lower flow. He asked if it wouldn't be better to have a sign that shows the average water flow, what the current flow is and what the water temperature is. He thought this would educate people to what was average and then give what the conditions are on a certain day. He said he would like to see the slide and diving board remain in place. He said that the park should be marked better with signs that say there is no life guard. He didn't think the monitor was a life guard, just a play ground monitor. Hirschi said he uses the river for floating, boating and kayaking and if the sand bar is closed it forces people to enter in more dangerous places. He said that many people bring their children expecting the monitor to be the babysitter. Hirschi said that there should be signs that say swim with a buddy with basic simple safety guidelines. Councilmember Willmore wanted to know who would post the water flow information. Butigan said there is a measurement station at Boys Town Park and that flows are accessible on the web at the USGS Surface Water for Idaho Stream Flow Measurements number 13050500. Councilmember Fullmer suggested that the Park Monitor check in each day and provide an indication like low, medium and high dangers, like the fire department has for fires. Hirschi said he thought it was one of the safest places to swim in the area. Fullmer asked that the diving board be closed until the waters can be checked underneath the diving board by search and rescue. Hirschi thanked the council.

Will Rhea, 317 North 1<sup>st</sup> East, agreed with Hirschi and thought more signage would help especially for people that don't live here. Councilmember Stoddard asked what kinds of signage. Rhea said signs that say don't go in the water if it's fast, high and cold. He said it's a nice park, but visitors need more signage to educate them. The locals know not to go into high waters. Rhea said he knows that the Swim Monitor isn't responsible, as he is the responsible party for his children. Councilmember Fullmer said that the city doesn't have a "Swim Monitor," rather the city has a "Park Monitor". Rhea said people don't bother reading the sign that says there's no life guard on duty.

Carol Ploussard, 2994 North 8000 East, Teton, asked if the employee is considered a Park Monitor why is he carrying safety apparatus. Ploussard said it makes him look like a life guard. Mayor Rose said that his job description does not allow for him to enter the water beyond the roped off area. He is allowed to utilize throw ropes and flotation devices to throw beyond that. Attorney Forsberg said he has no responsibility other than to be a

park monitor and to assist small children at the water's edge. He has no authority beyond that. Ploussard said that it isn't clear what his duties are. Mayor Rose said that people need to be a little more aware of their own safety. Ploussard said that her girls grew up here and swam at the Sand Bar Park. She thought the city should consider taking down the diving board and blocking off the grassy area. She said the channel is strong no matter how high or low the water is. She said that kids jump off the well and follow the channel down. Ploussard suggested that if the city is going to pay for a monitor then they should consider blocking off the grassy area and taking down the diving board and keeping it clean. She didn't think the signs would do any good as the kids will jump off the Newdale Bridge and Monkey Rock. Ploussard said that it is our responsibility to keep everyone safe no matter if they are local or not.

Annette Hepworth, living in Rexburg, but originally from Preston, said that Lance Jensen was her brother. Hepworth said she appreciates all the comments made so far and she agrees with all of them. She thanked everyone for all their consideration in the safety. She said she just wanted to say that they don't blame the city and that it was Lance's choice to jump in. She said that if the city has this attraction that the city should educate swimmers, especially for people not from here to make an educated choice. Hepworth said signs should be placed making recommendations, so that people could make a choice.

Nancy Jensen, from Preston, said she wants to thank the council for considering putting in additional safety measures and is grateful for the search and rescue. She said they visited the Sand Bar Park the Sunday following the accident and saw the orange fencing and appreciates everything the city has done to try to make the Sand Bar Park a safer place. She said that they don't want the city to close the park down. Jensen said they don't blame the city for what happened, but that the city should educate the public. She said that the orange fencing should be placed when it's not safe, but then to bring it back down when it is safer for everyone to enjoy the area. Jensen said that education is important so that people could have a choice and a chance to know that river is dangerous. She said her son, Lance Jensen, would jump off bridges into the Bear River and she thought that the diving board was an open invitation to jump into the river. Even if the river is temporarily closed, it is better than nothing. Jensen said she appreciates everything done so far and the things that they will consider. Mayor Rose expressed his sympathy with the tragedy and that the city will do what they can to educate people.

There being no further public comment Mayor Rose closed the public comment time.

**Parks & Rec Committee Report – Melissa Hinckley** – Hinckley said that the committee is trying to put together a plant memory program for people to order trees and a plaque for the "memory of". Auction of the old playground equipment will be done; she just doesn't know when, maybe August or September. The committee would also like to purchase more loose fill. So far, four bags of loose fill have been put down at Keefer Park. She said they will need at least another six bags to complete the project at a projected cost of \$6,000. The committee is looking at revising and updating the tree ordinance as some of the ordinance doesn't allow for certain things and she will get updates to Attorney Forsberg for his review. Garry Bates, Arborist with the Idaho Department of Lands in

Idaho Falls, has been talking about planting trees and the committee would like to recommend a free permit be required for people that plant or remove a tree in the city's right of way. She said that some trees were topped at West 2<sup>nd</sup> North and those trees will now get center rot and that this is against the tree ordinance. PWS Butigan said the homeowner is responsible for taking care of the trees. If they fail to take care of the trees then the city would do the care and then bill the homeowner. Hinckley said she would like to know if they can issue free tree permits for planting and removal of trees in the city right of way. Attorney Forsberg said there is no ordinance that requires either a tree permit or the kinds of trees to choose. Hinckley said this is only for trees that are in the city right of way. Forsberg said if it's not in the ordinance then we can't do it. Hinckley is asking that the ordinance be changed to allow for tree permits. Mayor Rose assigned Hinckley to work with Andersen, Garry Bates and the Parks & Rec. Committee to come up with a solution for a possible ordinance that would allow for tree permits in the city right of way. Mayor Rose would also like a list of names of people that may be interested in serving on the Parks and Rec. Committee so that council can approve additional board members. Hinckley says that no one wants to do this and no one wants to volunteer. She said she is applying for a grant through CHC Foundation to replace the trees downtown. The dead line is August 7, 2009. Councilmember Fullmer asked if there is a match. Hinckley said there is no match. Fullmer said that the Parks & Rec. Committee should be asked to look at charging fees or charging for extras in the parks. Mayor Rose said he has been talking with the County Commissioners and said that he may ask for help in paying for some of the extras at the ball parks. Fullmer said that Parks & Rec. should start talking about possible user fees in their committee and to review and bring back recommendations from the committee to the council. Hinckley said that Parks & Rec. is not being informed of things that the city is doing, such as the renaming of Horsey Park to Boyd Yancey Memorial Park and the tree planting at South Side Park. She said they feel useless when the council makes decisions, overlooking the Park & Rec. Committee. She wants to know what Parks & Rec. is supposed to do. Fullmer said that the renaming of the park was talked about in a number of meetings. Hinckley said that as the park chairperson that she should have been notified. Councilmember Biorn said that as a council they understand that a mistake has been made and that her concern has been addressed for this committee and all the other committees the city has. Forsberg asked if she has heard from Cindy Miller on Boy's Town Park. Hinckley said that Miller has a group of people coming to help out at Boy's Town Park. Hinckley said that she told Miller to contact the clerk about getting the funds to provide food for them. Clerk Parkinson said she was never contacted. Mayor Rose said that the city provided refreshments for the Greenway Cleanup. Fullmer said that there isn't money in the budget to pay for this and that it should have been brought to the department head to make a decision on paying for this. Hinckley said there should be money in the Parks Fund to pay for this. Councilmember Andersen said that he would review the budget and decide. Andersen will contact Hinckley on the total amounts. Forsberg asked if she had any thoughts on the Sand Bar Park. Hinckley said the locals know about the dangers, however, the college students should be educated from the University end. Forsberg asked if her committee would be interested in being involved in becoming part of the Sand Bar Park Safety Committee that will be doing a study of the area. Hinckley said she would make the time to be on the Sandbar Safety Committee.

**Road Closure of 1<sup>st</sup> W, Courthouse Grounds, for Courthouse Car Show Celebrations, July 25, 2009** – Mayor Rose asked about closing this road.

Councilmember Fullmer said that the Chief of Police has the authority to close the roads. Councilmember Biorn said that the reason it was on the agenda was to clear it with the Pioneer Day Committee. Biorn said that has been done and the Pioneer Day Committee is okay with the courthouse having a car show on the same day as the Pioneer Day Parade. Mayor asked the Chief of Police to follow up on the road closure.

**INVOICES & CLAIMS** - Payment Approval Reports were presented to Mayor and Council. A motion to pay the bills was made by Councilmember Fullmer and seconded by Councilmember Biorn. All council members were in favor.

**MINUTES** - Regular meeting minutes of May 27, 2009 and June 10, 2009 and City Council and County Commissioner Work Meeting Minutes of June 3, 2009 were presented to Council. A motion to approve the regular meeting minutes of May 27, 2009 and June 10, 2009 and City Council and County Commissioner Work Meeting Minutes of June 3, 2009 was made by Councilmember Fullmer and seconded by Councilmember Powell. All council members approved.

**MAYOR & COUNCIL REPORTS**

Councilmember Willmore reported on the Airport Board meeting. The board is talking about revising the ordinance and there are recommendations that they will provide to Attorney Forsberg before their next meeting in October. There are still two unpaid leases. One lease, Sam Buckley's, was just missed and Buckley was at the meeting and said he will pay the fees. There will now be fuel out at the airport. It will bring people into town. Neal Shupe has put it in and it should be ready soon. There will be a Fly In September 12, 2009. They are looking at a pilot controlled lighting system. Also, a letter was sent to the commissioners asking for help with the airport. Willmore said he spoke to Paul Romrell and he said they have approved that and the check is in the mail. There is a lot going on and the Airport Board is excited about the changes they are making.

Councilmember Stoddard said there are a few ordinances in the police department that need to be updated and they are currently working on some of these for future meetings. Stoddard reported there is another Finance Committee meeting Monday night at 5:30.

Councilmember Biorn had nothing to report on for the Chamber of Commerce. Biorn said that the Farmer's Market is slow right now, as the season kicks in more towards the fall.

Councilmember Andersen said he has a conflict with the next Parks & Rec. Committee meeting with other meetings with VFW and another commitment. Mayor Rose asked Andersen to contact Hinckley of the conflict and to obtain the meeting minutes.

Councilmember Fullmer said that the water truck needs new tires. PWS Butigan said that the tires are worn and it should be covered in the budget. Fullmer would also like the diving board to be roped off until someone from Search & Rescue can dive down to look below the diving board for any unseen obstructions. Butigan said he has contacted Search & Rescue and it's already been approved it's just a matter of getting everyone

coordinated to have it done. It should be done by mid next week.

## **DEPARTMENT REPORTS**

Clerk Parkinson reported on receiving \$600 from the Pioneer Days Committee. That revenue was placed into the street fund, since this is where all the work will be coming from for preparing for the parade. Mayor Rose said that the street department hauled sand for them to prepare for the rodeo.

Attorney Forsberg said he spoke to Val Hammond and Hammond indicated that the school district is not interested in going ahead with the one way street by Fort Henry School. The school district is thinking to leave things as they are and see what it looks like after a bit before making any more recommendations to the council. Forsberg reported that Planning & Zoning is frustrated with wanting to enforce the curb and gutter ordinance. This has been difficult because many places in town don't have storm sewers, elevations are so different, and there are so many varying factors. They feel that they must recommend approval of variances in many cases since it doesn't make sense to put in curb and gutter. Planning & Zoning would really like council to look at the curb and gutter ordinance for a number of different reasons. Planning & Zoning has also been asked to look at wind turbines and their possible use inside the city limits. They feel like there are many issues surrounding this as it relates to public health and safety and they are not inclined at this time to approve an ordinance that would include wind turbines. Forsberg said Planning & Zoning is doing a really good job.

PWS Butigan said the fence is finished at Keefer Park. Some of the preliminaries are being done for the East Main Project. Core samples will be done in the next week or so. Butigan said that there is needed sewer maintenance on East Main, at about \$15,000 to \$20,000, which should be done before the project begins. They will look through the sewer with a camera to see how much of the sewer line needs replaced. The sprinklers are put in at the lot next to the city building. It will be raked off and grass seed will be planted in the next fiscal year. Mayor Rose asked about getting a grant from CHC Foundation to help with the grass seed. Butigan thought that it might cost around \$1000.

Chief Smith said that the Sand Bar Park signs should say that the park monitor is not a life guard and to swim at your own risk. There are no buoys up and it's hard to put them up until the water level is lower. Butigan said that the normal buoys that have always been up are up. Chief Smith said he is talking about the rope around the swim area. Butigan said there was never a roped off area. Butigan said there won't be a roped off area until Rocky Mountain Power sends us the money to purchase the roped off buoys. As soon as those arrive they will be placed.

There being no further business to come before the Council the meeting was adjourned at 10:56 p.m. by Mayor Rose.

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Garth Rose, Mayor

Attest:

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Patty Unruh Parkinson, City Clerk-Treasurer