

CITY OF ST. ANTHONY  
REGULAR COUNCIL MEETING MINUTES  
DECEMBER 8, 2011, 7:00 p.m.  
420 NORTH BRIDGE, SUITE A, ST. ANTHONY, ID, CITY COUNCIL CHAMBERS

**PRESENT:** Mayor Neils Thueson, Council Members Rod Willmore, Elva Powell, Tom Erickson and Bryant Biorn.

**ABSENT:** Council Members Suzanne Bagley and Bryan Stoddard

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

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

**PLEDGE OF ALLEGIANCE** was led by Attorney Bill Forsberg.

**PUBLIC COMMENT** Mayor Thueson welcomed everyone to the meeting asking for any comment. No comments were made.

### **GENERAL BUSINESS**

A motion to add to the agenda a request for a Liquor/Beer Application for Spurs & Spokes Saloon was made by Councilmember Biorn and seconded by Councilmember Powell. All council members present approved. Motion passed 4-0

**Liquor/Beer Application, Spurs & Spokes Saloon, Shanelle Garcia** – The Spurs & Spokes Saloon owned by Go C Goe Teton Junction, LLC is requesting a liquor/beer license. A few questions were asked of Garcia about management. They also run the Silver Horseshoe. Chief Smith said he has spoken with Garcia. Smith said he is okay with the application. A motion to approve the Liquor/Beer Application from Go C Goe Teton Junction, LLC operating as Spurs & Spokes Saloon was made by Councilmember Willmore and seconded by Councilmember Biorn. All council members present were in favor. Motion passed 4-0.

**Accept the Canvassed Election Results by Precinct (Parkinson)** – The canvassed Election results were presented to council and read into the record by Clerk Parkinson. A motion to accept the results of the following: Thomas B. Erickson, precinct 1, 139 votes, precinct 2, 36 votes, precinct 3, 125 votes, for a total of 300 votes; Lisa Haeberle, precinct 1, 92 votes, precinct 2, 32 votes, precinct 3, 59 votes, for a total of 183 votes; Rick Hill, precinct 1, 120 votes, precinct 2, 31 votes, precinct 3, 132 votes, for a total of 283 votes; and Russell Rubert, precinct 1, 128 votes, precinct 2, 24 votes, precinct 3, 109 votes, for a total of 261 votes; was made by Councilmember Willmore and seconded by Councilmember Powell. All council members present were in favor. Motion passed 4-0.

**Discuss Utility Account at Property 239 N Bridge/Van Witbeck (Forsberg)** – Attorney Forsberg reviewed the property at 239 N Bridge, owned by Tom Van Witbeck, and his earlier request for a refund on sewer EDUs (Equivalent Dwelling Units). Van Witbeck alleges the

city owes him around \$8900 from 2003 to current for over charging him for four EDUs. Forsberg reviewed the history of EDUs and also spoke with prior Councilmember Andersen, who was also the public works superintendent during the time EDUs were established. Going forward Clerk Parkinson has changed the EDUs from 12 to 8. At the time EDUs were established it was determined there was 12 units. Forsberg asked Van Witbeck for some sort of documentation indicating the time the property changed from 12 to eight units. The last remodel of the property, according to Van Witbeck, was 1993 and it went to eight units. It was in 2003 the city began billing for 12 EDUs and the beginning of when the city began charging for EDUs. This was using the best information the city had at the time. Forsberg has checked with Planning and Zoning and there were no certificates of occupancy. There are no other records to indicate anything differently. Forsberg said the city in October of 2003 provided this change of rate to all multiplex owners. The city has a law placing the burden on the owner of the premises to make sure they are being billed correctly. The city gave public notice and public hearing to all owners regarding the upcoming changes to the new charges. The city also provided notice to owners to complete an affidavit if any units were vacant and the city wouldn't then charge for those vacant units. This is an ongoing practice. Forsberg said the statute of limitations on a problem like this is five years. Forsberg advised council they don't have to go back more than five years per state law. In addition, the city has an ordinance required the property owner to notify the city of anything they think is not right. Forsberg said Van Witbeck said notice wasn't given until the last newsletter. However, Clerk Parkinson has provided the same information each year for the last three years via the newsletter. Forsberg believes the clerk prior to Parkinson also practiced this. Forsberg said he knows all owners were notified at the time this occurred. If council decides to give back any money to Van Witbeck then council will be setting a precedent to anyone else coming in to ask for the same thing. Forsberg said there is also an issue of certainty and at some extent council would just be guessing at the amount of the refund. Forsberg said legally the city doesn't have to pay. The question to council is what kind of precedent will be created if they do provide this refund and how much work will be required and will council be considering refunds every couple of months anytime anyone comes in and requests it from past years. Forsberg said the city's law is very clear. The owners of these properties have to pay attention to what is going on at their properties. Councilmember Erikson asked Van Witbeck why it has taken this long for him to come forward and question his bill. Van Witbeck said his wife came to the city offices and spoke verbally on several occasions about the error. In 1996 there was \$208.75 of over charges refunded. Van Witbeck said they are also remote property owners, not living in the area and had a resident manager. Van Witbeck said they have called on numerous occasions and complained about the fact the bill seemed high. Van Witbeck said he never discovered it was 12 EDUs until Clerk Parkinson pointed it out. Van Witbeck said he made several calls, but never did anything in writing and he said the city has not been upfront in giving information as they should be. He also complained about purchasing a dumpster the city took out and never gave back to him. Councilmember Biorn asked how far back the city's records go. Clerk Parkinson said three years. Van Witbeck said the analysis he did shows \$17,436 in actual charges for sewage and his estimate was different using the EDUs he came up with \$17,339, a difference of \$97, which is less than half of one percent, which is better than a guess. Councilmember Willmore said the city will open up a can of worms if we start allowing credits for past errors on bills. Biorn said he sees it as the Van Witbeck's made an effort to get it changed and it never got changed. Erickson said he agrees an effort was made, but it never was changed. Clerk Parkinson said everything currently being done is done in writing and being scanned into each individual account. Erickson asked if when they realized nothing

was being changed why they didn't come in after that. Van Witbeck said he had no way of knowing it wasn't being changed. The only way he knew was when he got the newsletter and the clerk was talking to him about EDUs. Erickson asked again if they didn't notice each month it wasn't getting changed and if they just kept coming back each month asking for a change. Van Witbeck said he didn't know how many times they called. He said they just called and was told the bills were normal and not high at all. Forsberg said we just don't know what the conversation was. Many times people are not happy to hear an answer and usually it's only their word against the service staff's. Councilmember Biorn said at some point a discussion will have to had regarding placing EDUs on the bills. Biorn said he believes the Van Witbeck's made an effort, possibly more than once. However, we can only verify what is currently in our data. Biorn said we are not obligated by law to even consider a refund. Clerk Parkinson provided council with a rough estimated where three years of a credit for four EDUs would be around \$4000. Forsberg said based on the evidence here, the city just doesn't refund. Forsberg said his concern is setting a policy that would create everyone coming to council who may have heard about this refund and council becoming the judges of every single claim.

A motion to enter into an executive session pursuant to provisions of Idaho Code 67-2345, subsection 1 (f) was made by Councilmember Biorn and seconded by Councilmember Erickson. A role call vote followed with council members Powell, yes; Erickson, yes; Biorn, yes and Willmore yes. Motion passed 4-0.

Mayor Thueson requested the room be cleared except for the council members, Clerk Parkinson and Attorney Forsberg.

A motion to come out of executive session was made by Councilmember Biorn and seconded by Councilmember Powell. A role call vote followed with council members Powell, yes; Erickson, yes; Biorn, yes and Willmore yes. Motion passed 4-0.

Mayor Thueson called the regular meeting to order and announced no decisions were made in executive session.

Councilmember Biorn said he believes the city shares some responsibility for the errors made to Van Witbeck's account. Councilmember Powell agreed with Biorn. A motion to offer a refund to the Van Witbeck's for the difference of four EDUS going back three years as a credit to their account was made by Biorn and seconded by Councilmember Erickson. Mayor Thueson asked for discussion. Van Witbeck requested a moment to discuss this with his wife and they left the room. While they were gone Mayor Thueson tabled this item to continue to the next item of business.

**Annual Road and Street Financial Report (Parkinson)** – A copy of the Annual Road and Street Financial Report was provided for council's review. Several questions were asked and satisfactorily answered. This report is sent to the Idaho State Controller and will be published in the legal section of the newspaper as required by law. A motion to accept the report was made by Councilmember Erickson and seconded by Councilmember Willmore. All council members present approved. Motion passed 4-0.

Mr. and Mrs. Van Witbeck returned to the council chambers and Mayor Thueson then

brought back to council the motion made by Councilmember Biorn. Tom Van Witbeck said they would like to proceed and requested the council's offer be provided to them in writing. Attorney Forsberg said in summary the Van Witbeck's are uncertain about accepting this offer at this time and are asking for a letter from the clerk regarding this offer. Mayor said this will be tabled until the Van Witbeck's review the offer.

**III-A Joint Powers Agreement Amendment Approval (Parkinson)** – Clerk Parkinson reported this is the amended Joint Powers Agreement for the Idaho Interagency Insurance Association. It needs to be signed by every council member and accepted with a motion. Because of this amendment it has slowed things down a bit by a month. So instead of the new insurance beginning on January 1, it is now expected to start February 1. A motion to accept the III-A Joint Powers Agreement Amendment was made by Councilmember Biorn and seconded by Councilmember Willmore. All council members present approved. Motion passed 4-0.

**INVOICES & CLAIMS** - Payment Approval Reports were presented to Council. After several questions, which were satisfactorily answered by staff, a motion to pay the invoices and claims was made by Councilmember Biorn and seconded by Councilmember Willmore. All council members present were in favor. Motion passed 4-0.

**MINUTES** – Regular Council Meeting Minutes of November 10, 2011 were presented to Council. A motion to accept the Regular Council Meeting Minutes of November 10, 2011 was made by Councilmember Powell and seconded by Councilmember Willmore. All council members present were in favor. Motion passed 4-0.

## **DEPARTMENT, COUNCIL & MAYOR REPORTS**

**Police Chief Smith** reported they are working on getting a new officer hired. The E-ticketing is working at the courts. The media reports has changed and are asking about everything that is going on. The Sheriff's Office is sending this information to the media for us. The police summary was provided. Street lights have been checked and everything is working. There is one street light out and a report was given to the clerk. Councilmember Willmore asked how many applicants the police department has had. Smith reported receiving five. Three are certified.

**PWS Butigan** reported crews are waiting for snow.

**City Attorney Forsberg** reported speaking to Stephen Loosli, Fremont County Planning and Zoning Administrator, and he complimented the city on the way we are working on updating our comprehensive plan. The city also has partnered on a HUD grant project with the county. Forsberg said the Mayor should appoint someone as a point of contact for this grant. Forsberg suggested Clerk Parkinson and a member from the city's Planning and Zoning Committee. Forsberg suggested Even Tibbitts, Jim Hobbs or Paul Romrell. Mayor Thueson recommended Hobbs, Parkinson and himself. Forsberg will report back to Loosli Thueson's choices.

**Clerk Parkinson** reported having some recent problems with Wells Fargo Bank and deposits. The bank's back room has been changing the amount of the deposits and check items. This error is affecting our customers as well as the amount of time spent by front

office staff in locating and correcting the errors. Parkinson is working with the branch manager and other area managers at Wells Fargo. One solution is to do what is called "Desktop Deposit" with Wells Fargo. This is a way to image the check item and create a deposit using those images through the online banking system. There wouldn't be any additional charges for this except for the cost of the hardware (a check scanner). Parkinson is trying to get Wells Fargo to pay for part of the scanner costs, since it will add an additional duty to the office staff. The least expensive machine is priced around \$400 and the faster machine is priced at \$575. Parkinson would like approval to spend the money necessary to purchase the scanner. Council said the hardware should be free and not to spend any thing before first checking with Bank of Idaho. Parkinson also reported on work being done for the design portion of West Main Street. There has been a complaint regarding the people taking photos of the street for historical value. A letter is being drafted to send to the complainant. Next year's calendar has been provided showing all the upcoming council meetings. Parkinson also provided a copy of the close out papers associated with the Wastewater Phase III Project. Everything has been completed with no outstanding items. Chamber news was also provided. The leases have all gone out. The Chamber of Commerce has returned their lease. The doctor's office and the Library leases have not been returned, however, they are paying the increased lease amount. Attorney Forsberg said payment indicates they have a lease for the increased amount. Business Licensing is moving along with a number of applicants already applied.

**Councilmember Powell** reported the Christmas lights put up by city crews around the building look good.

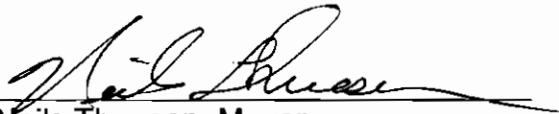
**Councilmember Erickson** reported the city wants to purchase a new ATV for pushing snow. The current ATV is not really big enough for the job crews need to do when pushing snow. The crew would like to trade in the Honda 250 for a new, bigger Polaris with a larger snow plow and winch. There is money left over from what council approved for the purchase of pickups and this money would be used to purchase the Polaris. Council agreed to spend the money.

**Councilmember Biorn** asked if there needs to be a Finance Committee meeting for the audit. Clerk Parkinson said the auditor is meeting with the Mayor and her on Monday to review the audit prior to presentation to council at the next meeting. Parkinson expects a clean audit and review.

**Councilmember Willmore** asked if the money has been received on the airport fence grant. Clerk Parkinson said it had and will be included in last year's audit.

**Mayor Thueson** had nothing to report.

There being no further business to come before the Council the meeting was adjourned at approximately 9:30 p.m. by Mayor Thueson.

  
Neils Thueson, Mayor

Attest:

*P. Unruh Parkinson*  
\_\_\_\_\_  
Patty Unruh Parkinson, City Clerk-Treasurer

