

*CITY OF ST. ANTHONY
REGULAR COUNCIL MEETING MINUTES
APRIL 10, 2014, 7:00 p.m.
420 NORTH BRIDGE, SUITE A, ST. ANTHONY, ID, CITY COUNCIL CHAMBERS*

PRESENT: Mayor Neils Thueson, Council Members Suzanne Bagley, Tom Erickson, Lisa Haeberle, Rick Hill, Russ Rubert and Rod Willmore.

ALSO PRESENT: City Attorney Bill Forsberg, City Clerk/Treasurer Patty Parkinson, Police Chief Terry Harris, Public Works Superintendent Scott Butigan and fifteen others in the audience.

Mayor Neils Thueson called the meeting to order.

PLEDGE OF ALLEGIENCE was led by Boy Scout Brigham Chelson.

PUBLIC COMMENT

Mayor Thueson opened the floor for public comment. Mayor thanked everyone for coming and requested those present to stand up and introduce themselves and the reason they are attending tonight's meeting.

Brigham Chelson and two other boy scouts introduced themselves saying they are present for a merit badge requirements for Citizenship in the Community. Their Scout Master also introduced himself.

Also present were Brandy Hennefer, Chief Harris's daughter, and Brandy's two daughters, Hannah Stewart, an exchange student visiting from Germany and Helen Harris.

Donna Forsberg, Chair of the Parks and Recreation Committee was present.

Melissa Smith, resident of St. Anthony, said she was here to participate in the meeting.

Joyce Lewis introduced herself as the President of the Greater St. Anthony Chamber of Commerce. She said she was present to listen to their meeting.

There being no other comment, Mayor closed the floor.

GENERAL BUSINESS

Request for Prayer at Council Meetings/Melissa Smith – Mayor Thueson said this is a request for prayer to be considered at council meetings. Thueson said there are probably some in the community who would support this request and some who would not. He said he has attended government meetings in the past where a prayer is given. Thueson asked for council's opinion. Councilmember Rubert said he doesn't see

anything wrong with it and if it's the general consensus of the council he would support it and entertain any action council would want to take. Councilmember Bagley said she hasn't heard any opposition one way or the other. Bagley said with everything going on in the world she didn't think it would hurt to request for divine intervention in our community. Councilmember Erickson asked who Melissa Smith is. Smith introduced herself. Erickson said he appreciates Smith recommending this. He said he is in favor of it and thinks it's a good idea. Councilmember Haeberle said she is going to be the opposition. Haeberle said this is government and she is a strong advocate of keeping church and state separate. She would like to see how the citizens feel about it or if it is to happen she would like to see all faiths represented and not just one. Councilmember Hill said he would support it and when he was on the school board they started with prayer. Councilmember Willmore said he doesn't know and has been thinking about it and is a little uncomfortable as it's a public meeting and not a religious meeting. However, at the same time, Willmore said he is very religious and would not be opposed even though there are many uncomfortable. Willmore said there would need to be representation of all religious beliefs. Thueson said he has asked around to see what people's feelings were about this. Some want it and some don't. If it is something council decides to do he doesn't feel like this should place an additional burden on the city clerk to find out who will provide the prayer. If council feels like this is something which should be done, then council will do the prayer, unless someone requests to be left out of it. Thueson said he also believes prayer is a very personal thing and he offers a prayer before he ever arrives to these meetings and it influences his life. Bagley asked Smith how this came about. Smith said she feels like our nation and our government needs divine assistance from God. Smith said this country is made up of a variety of religions and no one should be forced to participate. However, this country was founded on Christianity and the founding fathers added it to laws and the basics of our country. She thinks this is a wonderful way to show we need divine help. Councilmember Hill asked what is legal. Attorney Forsberg said the best guidance he can give is to say the United States Congress prays before every session since its inception. No one can be forced to offer a prayer. It is legal and council has the right to include it on the agenda and make it a part of the meeting. Bagley asked if there was anyone in the audience opposed to this and interested in speaking on it. Gloria Winters, member of the audience, said we all have divine intervention in some manner in our lives and it is very personal. Winters suggested a silent prayer be considered or a time on the agenda for silent reflection. Then those who do not want to participate can sit silently until the minute has passed. Haeberle said she likes this idea. Councilmember Rubert said he has been in meetings where they call it various things, such as a moment of reflection or thought, and thinks it would be appropriate. Thueson said he would entertain a motion. Hill said he would like to think about it longer. Bagley agreed. Thueson said county commissioners and the school board all offer prayer. Thueson said this will be tabled and placed on the next agenda for further consideration.

Discussion of Kit Circle Speed Limits, Signs or Speed Bumps/Harris/Butigan –

Chief Harris said he has checked with the City of Rexburg and the portable speed bumps are about \$21 per foot. If speed bumps were decided then city crews could build them cheaper. Harris drove through the streets at both 15 and 10 miles per hour (mph)

and it takes 55 seconds at 10 mph and 41 seconds at 15 mph to make the loop. Harris said 10 mph is a much more comfortable speed. The 15 mph still felt uncomfortable. Currently, it is 20 mph and that is too fast. Thueson said it is a narrow street and there is no place for the kids to play and they'll be out in the street even if they know it is wrong. PWS Butigan said it doesn't make any difference in plowing snow whether there are speed bumps there or not. A resolution was created for modifying the speed limits on Kit Circle. Councilmember Haeberle read Resolution 2014-02 in full. A motion to adopt Resolution 2014-02 Establishing Modifying Speed Limits on Kit Circle was made by Councilmember Willmore and seconded by Councilmember Rubert. Hill asked Harris if the 10 mph signs would be enough or should speed bumps be added. Harris said the city can start with the signs and if needed add the speed bumps later. PWS Butigan said he also has some "Children at Play" signs which he will post. All council members were in favor. Motion passed 6-0.

Fair Housing Month Proclamation – Clerk Parkinson said the city always proclaims April as Fair Housing Month in support of Title VIII of the Civil Rights Act of 1969. Additionally, this proclamation is sometimes required for any grants the city may make application for. Councilmember Erickson read the proclamation in full. A motion to accept and proclaim April 2014 to be Fair Housing Month was made by Councilmember Bagley and seconded by Councilmember Erickson. All council members approved. Motion passed 6-0.

Fly-In Committee Report to Council – No one present to report.

Phil & Gloria Winters request to be on agenda regarding alley – Phil Winters said there is an alley way which is a dead end and approximately 100 feet deep. The property on the south side is owned by Winters and has been in the family for over 100 years. The neighbor on the other side thinks he owns to Winters property line. Winters said they went into court over this to get it taken care of. He said anything his neighbor wants to do in that alley he does. He says he can't use it and his neighbor has done everything he can do to be a bad neighbor. Winters says he doesn't know what to do. He has spoken to the Mayor. Winters said he has put a fence up and no trespassing signs up and he said he has two complaints in to the city and the city police department won't issue them. Winters said this guy harasses his family, stands and scowls, or if snow is moved he is on the phone to the city and he has put snow in his road. Winters said he calls the city and is told the city doesn't want to get involved in a neighborhood squabble. Yet, his neighbor calls and the city police department comes out. His neighbor wants the alley closed and given to him. Winters said he doesn't want that. He said he wants it the old way, where he can use it and his neighbor can use it. Right now only his neighbor gets to use it. Winters said his solution is for the city to close the alley and gate it off, giving half to him and half to his neighbor. He said he shouldn't have all of it because he needs that buffer. Mayor Thueson asked for Chief Harris to report. Harris said the police department has been called there numerous times. Harris said the other party, Lionel Smith, claims his property has been damaged by Winters. Harris said the damage property claim was closed due to not enough information to find a lead to pursue. Most have been civil issues regarding disputes on where property

lines are and who is doing what on the city owned alley. The fence which was put in was approved by the city's public works superintendent. Harris said nothing is going on in the alley which would be considered criminal. Winters said Harris is dead wrong. He said there are definite boundaries with pins which show where the property line is. Winters said he has incidents where a 40 year old lilac hedge was cut out by his neighbor, then weed whacked, then sprayed with some chemical. Officer Packer reported he responded to keep the peace while a fence was being put up. Packer said the trees had been cut down, but he never went back to see if anything was sprayed or not. He said half of the trees were still there and the other half had been cut down. PWS Butigan said the fence is approximately six to eight inches outside their property line into the alley. Butigan said a permit was issued for them to put the fence there. There are no city utilities down this alley. Butigan said as far as he's concerned the fence permit is perfectly legal. Thueson said he wants Winters to know he has been down there several times and sees nothing wrong with where the fence is and he sees nothing wrong with leaving the alley the way it is. Thueson said splitting the alley will not stop his neighbor from scowling at him. Winters said this guy is a bully and he won't let him use the alley. Winters says the neighbor uses the alley as his personal driveway into his business and he even paved it. Winters said there is two things council can do. One is for the city to keep the alley and lease half the alley to him (Winters). Winters said he would put a fence right down the middle so each could have their half of the alley. Winters said he knows Lionel Smith will be calling the city on a daily basis "writing up problems right in my face". Winters said he tried to move a building through there last winter and he had one of the police officers "setting there waiting to arrest him before he even got there" for disturbing the peace. Thueson said it is difficult to abandon city property for civil squabbles. The city doesn't abandon anything very often. Councilmember Willmore said the city does lease dead end streets and have done so in the past. Willmore said he can see a war starting and doesn't see how this won't cause more problems. Gloria Winters said every time the neighbor calls someone "runs right over". Yet, when they call no one comes. Gloria said there is no "balance". Councilmember Hill said he doesn't know what they can do as a city. We should respond when called on, but neither one has right to total use of the alleyway. Councilmember Haeberle said she is at a loss and would like to talk to Lionel Smith. Harris said the incident Winters is referring to is when a chicken coop was being moved. The police department responded, not to stop them from moving the coop or to threaten them with disturbing the peace, but to keep the peace. Winters said he has video of the event and Harris is wrong. Harris said the officer may have told them to stop yelling at each other or they would be charged with disturbing the peace. Winters said nothing was said between Lionel Smith and him. There was some discussion back and forth between Harris and the Winters until Thueson said it could probably be discussed all night like this but council needs to move on. Councilmember Erickson asked if the neighbor has his property fenced off from the alley. Winters said there is no fence on either side and that could be another thing they could do is fence off each side of the alley and have the city put a gate at the end of it so no one can use the alley. Erickson asked if since the fence was put up by the Winters if his neighbor has stayed off his property. Winters said he has not and his neighbor has come through the fence. Erickson asked what his neighbor does over his fence. Winters said anything he can do

to cause problems. Winters said what he did last time was he drove stakes down and went around the alley and was measuring. Erickson asked if a survey has been done. Winters answered yes. Attorney Forsberg said there are two sides to this story and if Mr. Smith was here he would say he has not gone on to Mr. Winter's property (Dusty Winter's property). Smith's commissioned the survey and the survey stakes are actually on the Winter's side of the fence by a few of inches, like PWS Butigan mentioned. Forsberg said this is less about criminal law and much more about civil law. Mr. Smith has a deed which indicates he has an easement over Dusty Winter's property on the other side of this fence. Forsberg said he doesn't know exactly what the easement is about. Easements typically give one rights to travel over property where they are at. The issues here are far from black and white. Which is why the city is finding it very difficult to intervene in any kind of productive way. Both sides have been counseled this may be something they want to bring to a judge in a civil action. Forsberg continued by saying this alley is almost like a buffer between the two of them. He said they have a conflict and the conflict ought to be decided between the two of them. If there is an actual trespass that can be brought civilly and it is far from clear there has ever been a trespass from the facts Forsberg has seen. The Smiths have claimed the Winters took their building and they want the Winters prosecuted for destruction of private property and theft. But it is impossible the evidence and the facts, as Forsberg understands them, really support either side in their criminal contentions. Winters said Forsberg is Lionel Smith's attorney. Forsberg said in the court case mentioned he assured Winters he was not Smith's attorney but was, in fact, the city's attorney. Erickson said this may be something a judge needs to help them decide. Winters says the city owns the property. Erickson said the city owns the alley and the dispute is how much someone is over a property line. Winters said his concern is who has the right to use the alley? Erickson said the alley is public property, everybody has the right and the city has the right to use the alley. Winters said he doesn't have use of the alley because he has to "put up" with Smith. Thueson said Winters should file a suit. Winters said he tries but the police department won't do anything. Erickson said the alley is community property, open to everyone, and it won't be closed. Thueson said changing the property line from where it is now to the middle of the alley doesn't solve any problems at all. Winters said the city police do not respond when he calls. Harris said they respond to every call received and if there is anything criminal they file with the prosecutor and if it's civil they'll file it as civil and try to keep the peace. Gloria Winters asked isn't the destruction of the trees trespassing. Forsberg said he has never received any sort of evidence of cutting trees on private property and in this case where these trees or bushes were cut was hanging out into the alley. Forsberg said the trespass is even murkier as there is a deed and an easement that is not stated in any particular way, just a right to travel across the property. This is all something which could be taken care of in a civil court and a judge can sort things out and give both parties some certainty. Councilmember Bagley said our attorney gave some advice and this is something she would have to stick with. Councilmember Rubert said this all sounds like a civil matter to him and one thing that does concern him is if our law enforcement community is involved, it is very important they are completely fair and impartial. Rubert said this sounds like a civil matter and he feels as a council member he doesn't have the authority to weigh in on. Thueson said it is difficult to resolve disputes between people and it's something that

should be worked out between the two of them. Closing alleys or abandoning city property without really good reason shouldn't be done. Thueson said he would entertain a motion from any council member about anything they would like to do. Erickson said closing the alley does not solve this problem and it probably needs to go to a civil court. A motion for the city not to close the alley was made by Erickson and seconded by Hill. All council members were in favor. Motion passed 6-0. Gloria Winters requested the city lease half of the alley to them. Harris said before the city considers a lease council should also consider the property owner on the other side of the alley as the other property owner has a garage which he access from the alley. Phil Winters said he uses the alley to get to his barn. Hill said if both parties need accesses through the alley-way why would the city lease any of the alley-way to either one of them? Forsberg said whenever council has done a lease of city property it is always done only after checking to make sure it doesn't disadvantage the adjoining property owners. In this case, it would clearly block the adjoining property's access to the garage. Before the city decides to do anything like that they should get input from the property owner. Willmore said if they lease the alley it would go against what they just voted for, as that would close the alley. Thueson agreed. A motion was made to not lease the alley by Willmore and seconded by Erickson. A roll call vote was taken with Rubert abstaining, Bagley abstaining, Erickson yes, Haeberle abstaining, Hill yes and Willmore yes. Motion carries with a 3-0 vote, 3 abstaining from the vote. Thueson told the Winters if someone commits a crime, then the police department will handle it. Phil Winters asked for the two trespassing charges to be filed. Harris said the one charge is when Smith reached through the fence, on city right of way, to tie a ribbon on the survey stake. Winters said Harris is wrong and this is before that. Harris said he did not deem that as trespassing, reaching through a fence on city property wasn't trespassing. The other one happened after the Mayor said to go ahead and put the fence there. Officers were called to stand by and keep the peace. The city doesn't take a stand on whether or not the stake has been moved, that is for a surveyor to determine. Thueson said Phil Winters called him down there and they went out and looked at it and Winters asked him if he could put a fence there. Thueson told Winters to go to the city, get a permit and Butigan would come out and tell him where the fence could go. Thueson said as near as he can tell, this is what happened. In the meantime, a decision has been made and council will move on.

INVOICES & CLAIMS - Payment Approval Reports were presented to Council. Following some questions by council which were satisfactorily answered by staff, a motion to pay the invoices and claims was made by Councilmember Bagley and seconded by Councilmember Rubert. All council members present were in favor. Motion passed 6-0.

MINUTES – Regular Council Meeting Minutes of March 27, 2014 were presented to council. A motion to accept the Regular Council Meeting Minutes of March 27, 2014 with spelling correction of Boy Scout Troop was made by Councilmember Bagley and seconded by Councilmember Rubert. All council members present were in favor. Motion passed 6-0.

DEPARTMENT REPORTS

Chief Harris had nothing to report. However, he would like to invite council, after the meeting, to come back to check out the police department and the new remodeling. There is also a bit of dessert provided by Mrs. Harris.

PWS Butigan reported the Idaho Transportation Department (ITD) received a complaint on the end of Bridge Street and South Yellowstone where it goes down from two lanes to one. ITD has recommended a merge left or a right lane, right turn only with a right hand lane. Harris said a merge left seemed like a good option. After a short discussion, a motion to place a sign to create a merge left on South Yellowstone and 6th South was made by Councilmember Haeberle and seconded by Councilmember Willmore. All council members were in favor. Motion passed 6-0. Butigan said he has received some estimates on the airport runway. Two estimates were received. One is for \$47,150 for a slurry seal at the airport and the taxi way area. They spray it down and squeegee it then spray with another coat. One coat on the runway and two coats on the taxiway. The other bid was for \$56,932 this is to squeegee both runway and taxiway with two coats. Councilmember Willmore asked if this includes the striping. Butigan said it does. Butigan said the second option will really make the runway smooth. Butigan said crews will crack seal the runway saving the city around \$20,000. After discussing the different options, it was decided to go with the \$56,000 option. Generator bids will be opened Monday at 10 a.m.

Attorney Forsberg had nothing to report.

Clerk/Treasurer Parkinson reported attending a meeting on III-A and the upcoming proposed changes as it relates to the Affordable Health Care Act. Since the city employs less than 50, there are no changes the city needs to make to meet the standards of the law. III-A will be providing our city, as well as all the cities in the pool, the opportunity to provide insurance to part time employees and the city may want to consider offering it. Offering insurance doesn't mean the city has to pay for the premiums. It could also be something the city could offer to council members. Parkinson said as soon as a policy and premium amount is figured out she will invite someone from III-A to come and talk to council about it. Parkinson also reported on attending the last Henrys Fork Watershed Council meeting and the HUD Consortium meeting. She briefly reported on some of the topics discussed and advised any information needed is always available on the appropriate web sites or by request. Parkinson reported 47 utility customers have opted out of paper billings with a total of 69 registered for Payment Service Network. Parkinson reported the City was awarded a 2014 Arbor Day Grant of \$300. This money will be used to purchase all the trees being planted on Arbor Day, which will be held at Jaycee Park, Friday, April 25 at 10:00 a.m. Parkinson also provided council with the 2014 Eastern Idaho Residential Water and Sewer User Rates Survey. The AIC Annual Conference will be held in Boise June 18 through the 20th. Anyone interested in attending should let Parkinson know and she will register and reserve hotel rooms for those going.

COUNCIL & MAYOR REPORTS

Councilmember Rubert reported attending the most recent Chamber of Commerce meeting. Two things they are concerned about are the flower beds and the Annual Free Fisherman's Breakfast. Mayor Thueson said he has some information which will be presented to council at the next meeting regarding the flower beds. Rubert said this will be the 59th year for the Fisherman's Breakfast. Some issues they are having are man power for setting up and taking down and funding the event. Local and corporate sponsorship is on the decline as well as new blood into the committee which runs the event.

Councilmember Bagley said she would like to be excused from the next council meeting as she will be in training.

Councilmember Erickson had nothing to report.

Councilmember Haeberle had nothing to report.

Councilmember Hill had nothing to report.

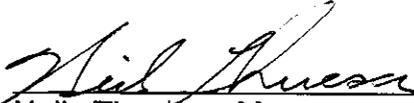
Councilmember Willmore had nothing to report.

Mayor Thueson reported talking to Paul Scoresby of Schiess and Associates about the West Main Project. The project is right on track and in about two or three weeks the finished design should be in to ITD (Idaho Transportation Department). Thueson said he also spoke to Scott Ellsworth of ITD as there are some other projects behind schedule and there is a possibility the funding may be available to begin in 2015 instead of 2016. There are some water lines the city would like to repair under the street and so this is something which will need to be pushed ahead and the city will pursue this vigorously. Thueson thought the city should be able to stay within budget on those repairs as long as there isn't much lava rock to have to deal with. Thueson said he received a request from South Fremont High School to advertise in the yearbook. Thueson asked council if this is something council wanted to use tax payer dollars on. Councilmember Haeberle asked if this has ever been done in the past. Thueson said he didn't believe the city has ever done this before. Parkinson said she didn't see where the city has ever done this. Thueson said he sees this as a donation and believe money would be better spent towards the Mayor's Youth Council Scholarships. Haeberle said the advertisers keep the cost of the year book down to the student. Councilmember Bagley said she is not opposed to them asking for a private donation from the council members but didn't think tax payers should be donating. All the council members agreed.

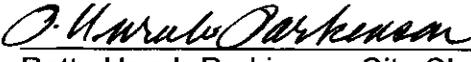
EXECUTIVE SESSION PURSUANT TO IDAHO CODE 67-2345, subsection 1 (b) –

There was no motion to go into executive session.

There being no further business to come before the Council the meeting was adjourned at approximately 8:45 p.m. by Mayor Thueson.


Neils Thueson, Mayor

Attest:


Patty Unruh Parkinson, City Clerk-Treasurer

