

MINUTES OF A REGULAR CITY COUNCIL MEETING HELD OCTOBER 7, 2010 AT THE CIVIC CENTER, 83 WEST MAIN, HYRUM, UTAH.

**CONVENED:** 6:30 p.m.

**CONDUCTING:** Mayor W. Dean Howard

**ROLL CALL:** Councilmembers Martin L. Felix, Paul C. James, Thomas C. LaBau, Stephanie Miller, and Craig Rasmussen present. Councilmember James was excused at 7:35 p.m.

**CALL TO ORDER:** There being five members present and five members representing a quorum, Mayor Howard called the meeting to order.

**OTHERS PRESENT:** City Administrator D. Brent Jensen, Zoning Administrator Ron Salvesen, City Engineer Craig Neeley, Animal Control Officers Frank Christiansen and Kurt Lindley, and seven citizens. City Recorder Stephanie Fricke recorded the minutes.

**WELCOME:** Mayor Howard welcomed everyone in attendance.

**PLEDGE OF ALLEGIANCE:** Councilmember James led the governing body and the citizens in the Pledge of Allegiance.

**INVOCATION:** Councilmember Rasmussen

**APPROVAL OF MINUTES:**

The minutes of August 19, 2010 were amended on Page 1, Paragraph 12, change "four councilmembers voted aye." to "five councilmembers voted aye."

**ACTION** Councilmember Felix made a motion to approve the minutes of August 19, 2010 with the above amendment. Councilmember LaBau seconded the motion and all five councilmembers voted aye.

The minutes of August 24, 2010 were approved as written.

**ACTION** Councilmember LaBau made a motion to approve the minutes of August 24, 2010 as written. Councilmember Felix seconded the motion and councilmembers Felix, James, and LaBau voted aye and councilmembers Miller and Rasmussen abstained since they were not in attendance at that meeting. The motion passed.

**AGENDA ADOPTION:** A copy of the notice and agenda for this meeting was faxed to The Herald Journal, mailed to each member of

the governing body, and posted at the Civic Center more than forty-eight hours before meeting time.

**ACTION**

**Councilmember Rasmussen made a motion to approve the agenda as written. Councilmember James seconded the motion and all five councilmembers voted aye.**

AGENDA

8. PUBLIC HEARING:
  - A. To receive public comment regarding the issuance of bonds for the purpose of financing the costs of acquisition and construction of a water tank and related improvements.
9. INTRODUCTION AND ADOPTION OF RESOLUTIONS:
  - A. Resolution 10-16 - A master resolution providing for the issuance of water revenue bonds.
  - B. Resolution 10-17 - A supplemental resolution authorizing the issuance of \$1,536,000 of Water Revenue Bonds and authorizing the execution and delivery of certain documents in connection with the bond; and related matters.
10. SCHEDULED DELEGATIONS:
  - A. Steve Krebs, Questar Gas - To discuss conservation and financial assistance programs offered by Questar.
  - B. City Engineer Craig Neeley - Approval of the application for the Land and Water Conservation Fund matching grant for the partial development of Salt Hollow Park; and to discuss impact fees.
11. INTRODUCTION AND ADOPTION OF ORDINANCES:
  - A. Ordinance 10-05 - An ordinance amending Section 6.16.020 and repealing Section 6.16.040 of the Hyrum City Municipal Code to no longer allow a dog or other animal that has bitten any person to be placed under "Home Quarantine".
  - B. Ordinance 10-06 - An ordinance adding Section 9.52.065 Synthetic Cannabinoids (Spice) to Title 9 of the Hyrum City Municipal Code to prohibit the manufacturing, distribution, possession, or use of synthetic cannabinoids (Spice).
12. OTHER BUSINESS:
  - A. Liability insurance renewal.
  - B. Consideration and award of bid for the 800 East Sidewalk Project.
  - C. Consideration and approval of an agreement with Wikstrom Economic and Planning Consultants to conduct a Disproportionate Fee Analysis.

D. Mayor and City Council reports.

**PUBLIC HEARING:**

**TO RECEIVE PUBLIC COMMENT REGARDING THE ISSUANCE OF BONDS FOR THE PURPOSE OF FINANCING THE COSTS OF ACQUISITION AND CONSTRUCTION OF A WATER TANK AND RELATED IMPROVEMENTS.**

Mayor Howard said the City is considering issuing a bond for the purpose of financing the cost of acquiring and constructing a water tank and other related improvements.

**ACTION**

**Councilmember James made a motion at 6:35 p.m. to open the public hearing to discuss the issuance of bonds for the purpose of financing the costs of acquisition and construction of a water tank and related improvements. Councilmember Felix seconded the motion and all five councilmembers voted aye.**

Jerry Petersen, General Manager of JBS Swift, said he has spoken with City Officials regarding this project and the need for it due to JBS Swift's water usage. However, JBS Swift is in the process of implementing water conservation programs throughout its Hyrum plant. Over the past couple of months JBS Swift has saved 800,000 gallons a week and is hoping to save over 1.5 million gallons a week in the next six months. He is concerned about Hyrum City building a new culinary water reservoir when it may not be needed. If the City builds a new reservoir water rates will go up, but if JBS Swift's water usage continues to decrease water rates may have to be increased higher than expected. He does not agree with Hyrum City's practices of transferring money from its utility accounts into the General Fund. It is not fair for businesses to subsidize the General Fund through higher utility rates. General Fund services need to be funded through taxes, fees, etc. not through utility fund transfers.

There being no further public comments, Mayor Howard called for a motion to close the public hearing.

**ACTION**

**Councilmember LaBau made a motion at 6:40 p.m. to close the public hearing to discuss the issuance of bonds for the purpose of financing the costs of acquisition and construction of a water tank and related improvements. Councilmember Felix seconded the motion and all five councilmembers voted aye**

**INTRODUCTION AND ADOPTION OF RESOLUTIONS:**

**RESOLUTION 10-16 - A MASTER RESOLUTION PROVIDING FOR THE ISSUANCE OF WATER REVENUE BONDS.**

Mayor Howard said Hyrum City does not have the commercial tax base to generate the funds needed to provide basic general fund services, such as, sidewalks, paved roads, snow removal, etc.

Councilmember James said JBS Swift does not pay property taxes to Hyrum City because it is not inside Hyrum City limits. The City provides general fund services indirectly to JBS Swift and the only way to recover those funds are through utility transfers.

Mayor Howard said Hyrum City is approaching the point when its storage capacity won't meet state and federal regulations. Now is a good time to build because labor and material costs are cheaper than in years past. In August 2010, the City rebid the 2.0 million gallon reservoir project. The City Council approved the low bid of \$1,848,087 contingent upon the City finding acceptable financing for the project.

**ACTION**            **Councilmember James made a motion to approve Resolution 10-16 a master resolution providing for the issuance of water revenue bonds. Councilmember LaBau seconded the motion and all five councilmembers voted aye.**

**RESOLUTION 10-17 - A SUPPLEMENTAL RESOLUTION AUTHORIZING THE ISSUANCE OF \$1,536,000 OF WATER REVENUE BONDS AND AUTHORIZING THE EXECUTION AND DELIVERY OF CERTAIN DOCUMENTS IN CONNECTION WITH THE BOND; AND RELATED MATTERS.**

Alex Buxton with Zions Bank Public Finance Office said his office received five proposals for the financing of \$1,536,000 water revenue bonds for Hyrum City's 2.0 million gallon reservoir project. US Bank provided Hyrum City with the best option 3.56% fixed interest for 15 years and no debt service reserve fund is required. Due to the federal law changes in the banking industry US Bank required a statement in the bond documents that if anything changes of a taxable nature the City has to pay for the taxes associated with the change. He spoke with Hyrum City's Bond Counsel Eric Hunter with Chapman and Cutler about the statement and together they could not come up with one scenario where a tax change would affect Hyrum City's bond payment.

Councilmember Rasmussen asked if the City could pay the bond off early without penalty.

Alex Buxton said if the City decides to pay off the bonds early

the City would have to pay the bank additional funding if the interest rate is lower than 3.56%. If the interest rate is higher than 3.56% at the time the City wants to pay the bond off early then the City would not have to pay an additional fee.

**ACTION**

**Councilmember LaBau made a motion to approve Resolution 10-17 a supplemental resolution authorizing the issuance of \$1,536,000 of water revenue bonds and authorizing the execution and delivery of certain documents in connection with the bond; and related matters. Councilmember James seconded the motion and all five councilmembers voted aye**

***SCHEDULED DELEGATIONS:***

**STEVE KREBS, QUESTAR GAS - TO DISCUSS CONSERVATION AND FINANCIAL ASSISTANCE PROGRAMS OFFERED BY QUESTAR.**

Steve Krebs with Questar Gas said he is the Operation Supervisor for Questar's Logan Office. Questar sponsors an energy savings program "ThermWise" that offers cash rebates for the purchase and installation of high-efficiency appliances and weatherization for residents or businesses. Rebates are also offered for builders of new residential construction for installing high-efficiency equipment and building qualified or high performance homes. Questar will also conduct energy audits to provide home owners with detailed reports on improvements that can be made in their homes to save energy.

Mayor Howard thanked Steve for informing the City Council of the rebate incentives offered by Questar. He asked Steve to provide the City with information on Questar's programs that could be included in Hyrum City's newsletter.

**CITY ENGINEER CRAIG NEELEY - APPROVAL OF THE APPLICATION FOR THE LAND AND WATER CONSERVATION FUND MATCHING GRANT FOR THE PARTIAL DEVELOPMENT OF SALT HOLLOW PARK; AND TO DISCUSS IMPACT FEES.**

*Grant Application for the Land and Water Conservation Fund*

City Engineer Craig Neeley said the State of Utah Division of Parks and Recreation is accepting applications for Land and Water Conservation Fund (LWCF) Outdoor Recreation Matching Grants. The Land and Water Conservation Fund Act was established by Congress in 1965, thereby, creating a federal reimbursement grant program for the acquisition and/or development of public outdoor recreation areas. Federal oversight of the program is provided by the National Park Service; but, the program is administered

locally by the State of Utah, through Utah State Park and Recreation. This matching grant assists in the acquisition and development of high priority public outdoor recreation lands and facilities. Eligible participants include state agencies, counties, cities and towns, and special service districts that provide park and recreation facilities. In order to be eligible for a grant, the applicant is required to match at least 50% of the funds requested. This grant can only be used for new projects; retroactive costs will not be matched. Part of the application process is for the grant application to be discussed at a public meeting to consider various issues and conditions of the grant. Hyrum City purchased the Salt Hollow Park property (10 acres) in January 2003 for \$106,262.30 to provide a park on the west side of Hyrum as outlined in Hyrum City's Open Space and Recreation Master Plan completed on May 10, 1999.

This past year Hyrum City has approved the site plan for Salt Hollow Park, Phase I, located at approximately 100 North 300 West, and is actively pursuing funding for its development. The approved site plan for Phase I of Salt Hollow Park includes initial infrastructure development that is critical to the development of the overall park, along with recreational amenities that patrons of the park will enjoy. The necessary infrastructure improvements include: 1) Construction of a paved entry way into the park's parking lot, including curb and gutter, and catch basins to control runoff; 2) Construction of a gravel parking area designed to be upgraded to pavement in a future phase; 3) Installation of a waterline to serve park amenities; 4) Installation of storm drain lines and an open ditch to carry storm drainage and irrigation water through the park and provide an aesthetically pleasing amenity to the park in the way of a meandering stream; 5) Construction of restrooms; 6) Installation of power to the restrooms; 7) Construction of an 8' wide pathway from parking area along activity areas to the restroom; 8) Construction of splash pad water game area; 9) Construction of children's playground area; 10) Enlarging the existing sleigh riding hill; 11) Planting of trees, grass, and xeriscape in developed areas; and 12) Installation of associated irrigation system for landscaping. These improvements will provide a variety of activities in the initial phase of the park and will open the door for additional development of the park in an orderly manner.

The estimated cost for the development of Salt Hollow Park Phase I is approximately \$300,000. Hyrum City is applying for a \$150,000 grant from the LWCF that it will match to obtain the \$300,000 needed to build the park. Hyrum City has been assessing impact fees to help pay for the development of Salt Hollow Park

and currently has \$100,000 set aside for this project. The City received \$50,000 from the Cache County RAPZ Tax Grant to help towards the development of Salt Hollow Park Phase I.

The development of Salt Hollow Park meets those requirements set forth in the grant application process. If Hyrum City is awarded an LWCF Grant it must be able to fund 100% of the project while seeking reimbursements for eligible expenses from the program. The City accepts the responsibility for compliance and the consequences of non-compliance. The City agrees that that site that has been develop, or improved, no matter how small the improvements, with funds from the LWCF grant program, must be open to the public and maintained in perpetuity forever for public outdoor recreation. The LWCF requires a boundary map of the recreation site be submitted and all properties and facilities contained within the boundary map must not be converted from public outdoor recreation. The project must be maintained as originally intended and large changes to the use or functionality must be approved by Utah State Parks and the NPS. All projects must comply with the National Environmental Policy Act and the Historic Preservation Act. Projects must include analysis of potential impacts on environmental and historic resources. Projects must also comply with the Civil Rights Act and Americans with Disabilities Act. All overhead power, cable, or communication lines must be installed underground. Existing lines must be buried, removed or relocated and future lines must be installed underground. All proposals are required to have solicited public comment before recommendation to the Utah State Parks Board. Sponsors receiving federal LWCF assistance must comply with all applicable local, state, and federal requirements regarding contracts and bidding. All grantees are required to submit quarterly reports on the grantees' progress toward completion of the grant project. Invoices and proof of payment for eligible reimbursable items must be submitted with all reimbursement requested. LWCF requires that all recreation areas assisted by the program post a sign acknowledging LWCF assistance. The sign must be posted in a prominent public area visible to all visitors. All documents related to the LWCF project should be retained permanently. All LWCF assisted areas must be open to the public during reasonable hours of operation. Hours of operation should be determined according to the type of area or facility being operated and in relation to the season. LSCF assisted properties must receive regular maintenance to ensure continuing public use in a safe and sanitary manner. Reasonable user fees may be charged by the sponsor to offset operation and maintenance costs. Inspections are regularly performed on LWCF assisted areas to monitor the project sponsor's compliance with the program requirements. Recreation areas found

in non-compliance will be notified in writing of the problems and a timeframe for remediation.

Councilmember Rasmussen asked if there were any potential environmental impacts that would need to be addressed or if an Environmental Impact Statement would need to be written before the grant application was submitted.

City Engineer Craig Neeley said there are no threatened or endangered species in the Salt Hollow Park area. There are natural drainage areas in Salt Hollow Park and a wetland survey may need to be conducted, however, it should come back with a finding of no significant impact. If there are drainage areas that are determined to be wetlands, there shouldn't be a problem since the City will be creating additional wetlands to those impacted.

Ted Kindred said he is looking forward to having a park on the west side of Hyrum. Currently, the children on the west side of Hyrum do not have a place to play close to their homes. He is excited about the plans for the park and the amenities it will provide. The children will enjoy a sleigh riding hill in the winter time, and a splash pad in the summer time. He also likes the inclusion of the nature area in the park. This park has something for everyone and he hopes that it is built before he dies.

Mayor Howard asked if there were any further comments on the LWCF Matching Grant application for the development of Salt Hollow Park Phase I. There being none Mayor Howard called for a motion.

**ACTION**

**Councilmember Miller made a motion to approve Hyrum City's application for the Land and Water Conservation Fund (LWCF) Outdoor Recreation Matching Grant in the amount of \$150,000 for the development of Salt Hollow Park Phase I and agree to the conditions and restrictions set forth in the grant application including the approval of \$150,000 to match the grant and that Salt Hollow Park will be open to the public and maintained in perpetuity for outdoor recreation. Councilmember LaBau seconded the motion.**

Councilmember James said the City has several parks with restrooms but the restrooms are never open for the general public to use. He is concerned about people bringing their kids to the City's playgrounds or ballfields and then having to leave the park if someone in their party needs to use a restroom. If the City is going to pay for restrooms to be built then they should

be open everyday during daylight hours. Restrooms are expensive to build but if they are never open then the City should not spend money to build them.

Mayor Howard said the agenda item is to discuss and approve the application for a grant to develop Salt Hollow Park not to discuss when the park restrooms should be open.

Councilmember James said his comments about restrooms not being open directly relates to the grant application. The City should not spend \$80,000 for restrooms to be built at Salt Hollow Park if the restrooms are not going to be open.

AMENDED  
11-04-10

**Mayor Howard called for a vote on the motion and all five councilmembers present voted aye. Councilmembers Felix, LaBau, Miller, and Rasmussen voted aye, and Councilmember James voted nay. The motion passed.**

#### *IMPACT FEES*

Craig Neeley said after hearing complaints from developers about Hyrum City's high impact fees he started to question whether Hyrum City's impact fees reflected today's economic climate. Hyrum City's impact fees are based upon construction costs from several years ago when building materials and labor were high. Construction costs have significantly decreased over the past two years, but Hyrum City's impact fees have not been adjusted to reflect the reduction in cost of its capital improvements projects. Hyrum City charges an electrical impact fee which is highly controversial with developers and builders. Rocky Mountain Power provides power to most communities and it does not charge an impact fee.

Councilmember James was excused from the meeting at 7:35 p.m.

Councilmember LaBau said at the Utah League of Cities and Towns Conference Attorney David Church advised cities to review and update their impact fees.

Mayor Howard asked City Attorney Craig Neeley to review Hyrum City's impact fees and make a recommendation at the next City Council Meeting.

#### **INTRODUCTION AND ADOPTION OF ORDINANCES:**

**ORDINANCE 10-05 - AN ORDINANCE AMENDING SECTION 6.16.020 AND REPEALING SECTION 6.16.040 OF THE HYRUM CITY MUNICIPAL CODE TO NO LONGER ALLOW A DOG OR OTHER ANIMAL THAT HAS BITTEN ANY PERSON TO**

**BE PLACED UNDER "HOME QUARANTINE".**

Mayor Howard said Hyrum City's Animal Control Officers are recommending elimination OF provisions for home quarantine for dogs under observation following an incident where someone has been bitten.

Animal Control Officer Kirt Lindley said if a dog is under home quarantine he cannot guarantee the dog is locked up and on a leash at all times. Most dog owners want to home quarantine their dog to save the \$150 animal quarantine fee. It is not in the City's best interest to allow a dog to be home quarantined in case the dog gets loose and bites another individual.

**ACTION** Councilmember LaBau made a motion to adopt Ordinance 10-05 amending Section 6.16.020 and repealing Section 6.16.040 of the Hyrum City Municipal Code to no longer allow a dog or other animal that has bitten any person to placed under "Home Quarantine". Councilmember Miller seconded the motion and all four councilmembers present voted aye.

**ORDINANCE 10-06 - AN ORDINANCE ADDING SECTION 9.52.065 SYNTHETIC CANNABINOIDS (SPICE) TO TITLE 9 OF THE HYRUM CITY MUNICIPAL CODE TO PROHIBIT THE MANUFACTURING, DISTRIBUTION, POSSESSION, OR USE OF SYNTHETIC CANNABINOIDS (SPICE).**

Mayor Howard said this ordinance prohibits the use or distribution of "spice" within city limits. The ordinance was provided by Cache County and other communities are adopting identical codes.

**ACTION** Councilmember Miller made a motion to adopt Ordinance 10-06 adding Section 9.52.065 Synthetic Cannabinoids (Spice) to Title 9 of the Hyrum City Municipal Code to prohibit the manufacturing, distribution, possession, or use of synthetic cannabinoids. Councilmember Felix seconded the motion and all four councilmembers present voted aye.

***OTHER BUSINESS:***

**LIABILITY INSURANCE RENEWAL.**

City Administrator D. Brent Jensen said that thanks to Mayor Howard and the other board members the Trust dropped our liability insurance premium from \$52,000 to \$50,441 for the coming year and paid us a dividend of \$11,282. He read an

article on utility companies being prime candidates for identity theft and asked the City Council if it should increase its identity theft liability insurance from \$18,000 to \$50,000.

The City Council authorized City Administrator D. Brent Jensen to increase the City's identity theft liability insurance from \$18,000 to \$50,000.

**CONSIDERATION AND AWARD OF BID FOR THE 800 EAST SIDEWALK PROJECT.**

Mayor Howard said the City received three bids for the 800 East Sidewalk Project:

<u>Contractor</u>	<u>Bid Amount</u>
Lundahl Building Systems	\$ 7,458.76
Willow Valley Construction	\$ 7,570.88
Consolidated Paving	\$20,685.00

City Engineer Craig Neeley recommended the 800 East Sidewalk Project be awarded to Lundahl Building Systems in the amount of \$7,458.76.

**ACTION** Councilmember Felix made a motion to award Lundahl Building Systems the 800 East Sidewalk Project for \$7,458.76. Councilmember LaBau seconded the motion and all four councilmembers present voted aye.

**CONSIDERATION AND APPROVAL OF AN AGREEMENT WITH WIKSTROM ECONOMIC AND PLANNING CONSULTANTS TO CONDUCT A DISPROPORTIONATE FEE ANALYSIS.**

Mayor Howard said the City Council called for quotes to conduct a disproportionate cost of service study for the community on rental units. This study will help determine if an additional fee should be charged to landlords.

**ACTION** Councilmember Miller made a motion to approve an agreement with Wikstrom Economic and Planning Consultants to provide a Disproportionate Fee Analysis for a sum not to exceed \$10,000. Councilmember LaBau seconded the motion and all four councilmembers present voted aye.

**MAYOR AND CITY COUNCIL REPORTS.**

Councilmember Miller said applications to serve on Hyrum City's Youth Council are being accepted through October 29, 2010. The Youth Council is helping with the Elk Festival at Hardware Ranch

next Saturday. Hyrum City's Holidays at Hardware Ranch is on Saturday, December 11, 2010.

Mayor Howard said the solar panels for Hyrum City's library are being installed on top of the City Shop and should be completed in a couple of weeks.

Alan Marchant said he lives in Rolling Hills Estates and wants the City to consider participating in a Countywide Library System. He knows there is going to be an opinion poll on a Countywide Library System during the General Election and he hopes if the majority of citizens want a countywide library that Hyrum City will participate. According to the data published by the people in favor of a countywide library, it will save Hyrum taxpayers at least \$35 a year. The City could use the money that is presently being spent on the library on other necessary projects, like the water reservoir tank.

**ADJOURNMENT:**

**ACTION            There being no further business before the City  
                         Council, the Council Meeting adjourned at 8:10 p.m.**

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W. Dean Howard  
Mayor

ATTEST:

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Stephanie Fricke  
City Recorder

Approved: November 4, 2010  
                  As Amended