

**MINUTES OF THE CITY OF DRIGGS
CITY COUNCIL MEETING
MARCH 3, 2009**

Pursuant to adjournment of the regular City Council meeting held February 17, 2009, and the call of the Mayor, the Driggs City Council met in regular session **Tuesday, March 3, 2009**, at 7:00 p.m. A roll call was taken and present were council members: Greer Jones, George Mosher, Dan Powers and Colin Dye, Mayor Louis Christensen, Public Works Director Jared Gunderson, and Planning and Zoning Administrator Doug Self and City Attorney Stephen Zollinger. Mayor Christensen led the Pledge of Allegiance.

MINUTES TO REVIEW

Council Members reviewed the minutes. Council Member Jones and Mayor Louis Christensen voiced corrections.

Council Member Mosher made a motion to approve the minutes of the February 17, 2009 City Council Meeting with the stated corrections. Council Member Jones seconded the motion. The motion carried unanimously.

CLAIMS REVIEW

Council members reviewed the claims.

Council Member Powers made a motion to approach Fall River to see if negotiations could be done to group all of the City paid meters. Council Member Mosher seconded the motion. The motion carried unanimously.

Council Member Mosher made a motion to approve the claims as presented dated February 18, 2009 through March 3, 2009. Council Member Powers seconded the motion. The motion carried unanimously.

TETON COUNTY COMMISSIONERS-KATHY RINALDI REGARDING WATER CONNECTIONS, ETC.

Kathy Rinaldi spoke to the Council. She stated a negotiation was discussed regarding the demolition of the city storage building in exchange for water hookup fees, totally approximately \$14,000. She stated there was some indication by the City that the trade was not equal by about \$4,000. The City requested roadwork on 5th Street be included. Kathy asked that the roadwork be removed from the negotiation because the County was currently short the funds needed to move into the new Courthouse. She stated the budget had been cut by .5 million already, and property taxes are down. She stated that if the City “granted this favor,” reimbursement could be seen in the form of “commerce generated by the Courthouse in the future.” She concluded her request stating, “If the trade could work in our favor, we will be able to be that much closer to moving into the Courthouse in the fall.”

Mayor Louis Christensen corrected Kathy and stated the City did not want the County to do the roadwork on Fifth Street, but was asking for the materials, specifically gravel, that

the City would haul. Kathy stated she would discuss this with the Commissioners and County Engineer.

Kathy went on to ask if the Council Members would be interested in participating in the Council of Governments again, by getting the cities and counties together to “talk shop.” Council Member Powers and Council Member Jones voiced an opinion that it was a good idea.

AIRPORT BOARD REPORT-

Kreslyn Schuehler presented information to the Council regarding the previous Airport Board Meeting. She stated the runway project was moving forward. Lillian Bowen had requested, and Ned Thomas had approved, the use of his property to crush material on site. This would reduce the amount of truck traffic on and off the airport property. The runway would be scheduled to close the first Monday in June and would remain closed for approximately 60 days.

Rachel Tiede, from Teton Aviation, requested to change rental car companies from Dollar Rent-a-Car to Hertz. She stated at the meeting that Hertz had more drop off locations and a higher amount of premium cars to rent. The Airport Board granted their approval of this, providing the same terms could be granted with Hertz as were in the contract with Dollar Rent-a-Car.

BRUCE SIMON – TABLED ITEM REGARDING THE DESIGN REVIEW FOR THE CINEMA COMPLEX – 7:30PM

Stephen Zollinger reminded the Council that if they received comments, written or verbal, regarding this item since the last hearing, those needed to be mentioned at this time.

Council Member Mosher stated the Council had received and reviewed letters from Ralph Mossman and Katherine Shephard, both requesting the appeal for the design review be denied. Council Member Powers stated he had a conversation with Chris Valiente and Anna Trentadue. Council Member Jones stated he had conversations with customers at Ace Hardware and he stated Doug Martin voiced his approval of the plan as reported in the newspaper.

Mayor Louis Christensen stated that at the last meeting direction was given to locate the water and sewer lines on the property. Doug presented the Council with an aerial photo of the property, with the site plan overlay and the water and sewer lines indicated.

Council Member Powers stated he talked to Jared Gunderson, Public Works Director and if the water line was to be moved it would cost approximately \$40 a foot, totally about \$16,000. Council Member Jones questioned where the water line would be relocated, if that option were chosen. Jared Gunderson stated that the line could be moved closer to the highway. However, that would increase the potential of running into the power lines. If the water line moves to within 10 feet of the sewer line, the pressurized sewer line would have to be moved also.

Doug Self presented his staff report. He referred to the above aerial photo showing where the building could be placed to meet the design standards and not interfere with the water and sewer lines. Council Member Powers stated this placement shown would still allow for one row of parking in front of the building. Parking on the north end of the building could also be maintained.

Council Member Mosher was concerned with the parallel parking that was shown on Highway 33 and questioned the safety of that decision. Doug stated that what the City had submitted the transportation plan it did not include parallel parking in this area.

Bruce Simon spoke stating, "things have been redrawn." He stated he could meet the parking requirements without the parallel parking. He stated the cinema had been moved to the south end and the retail space to the north. Council Member Powers questioned if there was more parking shown at this time than at the previous meeting. Bruce responded by stating yes, parking had been increased.

Mike Morrissey spoke, referencing an article from the Wall Street Journal and the New York Times. He stated that the cinema business was "one of the few American businesses that doesn't go to the federal reserves" and the movie industry has had a "box office surge." He continued to state that the cinema was a "depression friend business" that can "fill a void" by generating revenue for the City of Driggs.

Council Member Powers felt there "was no give" on Bruce's behalf. Bruce responded by stating that he did not feel that was a fair statement as he had incorporated all of the design review comments dealing with parking, landscaping, building layout and other items into his plan. However, he was not willing to give on the placement of the building.

Council Member Jones stated it seemed that the building placement as Bruce preferred, appeared to be very close to the existing structures on the property to the east. Bruce stated the setback requirement was 10 feet and would not be a problem to accomplish. Bruce continued to state that the "critical thing is the length of the retail spaces," which should be between 40 and 60 feet.

Council Member Mosher questioned if there would be access to the east side of the building if it was placed as Bruce proposed. Council Member Jones also questioned how trucks would load and unload items for the retail stores. Bruce stated there was room to access the eastside and would incorporate loading areas, presuming the trucks would be smaller delivery trucks.

Discussion began regarding if public comment should be allowed. Stephen Zollinger stated that because it was not a Public Hearing, the Council may allow all that wanted to speak a chance to do so as well as allow the applicant time to respond to the comments given.

Rick Baldwin, Chairman of the Design Review Advisory Committee and Commissioner for the Planning and Zoning Commission, stated the plan presented was different than what was seen previously and wanted clarification as to why it was being reviewed. Stephen Zollinger stated that the plans have to “change substantially” in order to be sent back to the Planning and Zoning Commission. Rick responded stating that the building orientation and parking have changed. Stephen explained that those changes were per the recommendations of the Design Review Committee and the Planning and Zoning Commission and that the City Council had to determine if the plan changed substantially.

Bruce stated he was not asking for approval of the site plan because things had changed and they weren't “fine tuned.” He was asking to place the building to the east and the parking to the west. He concluded by stating, the application could then go back to the Design Review Advisory Committee and Planning and Zoning to meet the other requirements.

Stephen Zollinger questioned why the application was being heard by the City Council. Doug Self explained that the Design Review Advisory Committee (DRAC) and the Planning and Zoning Commission recommended denial. The applicant was appealing that decision. He continued to state that the one standard the applicant was asking to be overturned was the building orientation.

Jay Mazalewski spoke in opposition. He stated that while he was in favor of having a cinema in Teton Valley, he did not feel approving the site plan was a good idea. He stated that the Council needed to set precedent and not “overturn decisions.” He questioned what role the Planning and Zoning Commission and the Design Review Advisory Committee played if their decisions were not valued. He stated it was “your duty to uphold the recommendations by the professionals that have put this before you.”

Anna Trentadue, from VARD, spoke. She stated she too would love a cinema and also spoke of the precedent that needed to be made. She stated that after the Broulims development was approved, the community wanted to see higher standards in place. She concluded by stating that moving the water line was a “small price to pay” as the cinema would be the gateway to Driggs.

Rob Bottner, Planning and Zoning Commissioner, spoke in opposition. He stated that because he was not able to attend the Planning and Zoning meeting when this issue was discussed, he wanted to voice his opinion. He stated that if the Council overturned the decisions made, he would like to hear each Council Member's reasoning as to why. He concluded by stating that if the Council overturned the appeal, they would be “giving away the rights of the community to dictate what the town should look like.” The City of Driggs would “not fold” because a cinema was not built, Rob stated. He continued to state that if the Council did not uphold the standards in the Comprehensive Plan, then they would be setting a precedent to “give away” what the community wanted. Rob concluded by reading from the Comprehensive Plan under Community Design.

Rick Baldwin, Chairman of the Design Review Advisory Committee and a member of the Planning and Zoning Commission voiced his concerns. He also referred to the Comprehensive Plan. He applauded the applicant for making the changes recommended, but still felt the parking between the highway and the building was a problem. He stated the guidelines were “very clear” and felt that the procedures “were such that this needs to be denied and remanded back to the DRAC and Planning and Zoning.”

Angie Rutherford stated she was enthusiastic about a cinema, but was concerned that comments from the community were not being taken seriously if the Council chose to overturn the appeal. She felt there were other options for the site plan and stated that the “most current research shows parking should be behind buildings.” She stated the plan presented was not the only way to have a viable business.

Erica Rice stated that the Valley was “very pedestrian and biker friendly” and should remain so. She felt the plan that was presented did not include connectivity for pedestrians and bikers and was concerned with the safety issues of a big parking lot.

Ralph Mossman, Commissioner for Planning and Zoning, spoke in opposition. He questioned why the architect was not working with Doug Self to create a plan that would incorporate the needed standards.

Lindsey Hays spoke and stated she felt the plan had “a lot of potential.” However, she stated the City had come a long way to ensure there were standards and if the Council approved the appeal, they would be “undoing all of the process that has been made.”

Bruce Simon responded to the public comments. He felt there was a “public outcry to the site plan,” and questioned if someone lobbied the audience. He questioned how those attending found out about the meeting since it was not noticed as a Public Hearing.

He continued to state that he was “appalled by the comments” and was “tempted to quit and not do it.” He felt to compare his proposed parking lot to that of Broulims was “a stretch and is a far cry from that.” He explained that he did not have to increase the parking as shown and was unable to apply for a variance because there was no geographic hardship.

He continued to state that he was a “pro-property right advocate” and emphasized that he would endure the risk and possibly failure for this project and not the City. He stated his project would be a “very attractive building” and would not be done haphazardly. He concluded by stating that he did not feel Driggs was “developer friendly” and felt that people did not want to see growth in the city. He wanted to “seize the moment but may not be back” as he might “get fed up and not do it.”

Council Member Jones felt that those opposed were the only ones to come to the meetings and told Bruce that several community members had approached him stating they liked the site plan and didn’t understand why there was so much “trouble.” He stated the placement of the building was far enough out of downtown that it would not

block views and that it didn't make sense to have the building "right up to the highway." Driggs is a walkable community and Council Member Jones felt that if you walked the 10 minutes from downtown to the Cinema Center you could "walk another 30 feet to the building." The standards were made after the Broulim's development was built, Council Member Jones did "not agree with them and if that building was at the highway it would have been a big mistake."

Council Member Powers felt there was room to compromise and that the level of visible parking was more than necessary. He stated the most logical way to revise the plan would be to eliminate the row of parking closest to the highway. The building could be moved closer to the highway and have parking and an alley way on the eastside.

Council Member Powers questioned if the application should be remanded back to Planning and Zoning with a request that only one row of parking be in front of the building. Bruce stated that with this suggestion, there would be more pavement. It was concluded that an increase of approximately 5 feet of pavement would be added if that layout were chosen. Council Member Powers responded stating, "I can live with that." Bruce stated he could not decide if this would work without having drawings.

Council Member Powers questioned if the Transportation Plan could be amended to allow on-street parking between Johnson Avenue and Teton Vista. It was questioned as to if parking on the highway would be safe. Council Member Powers responded stating that the speed on the highway should be slower and the on-street parking may also assist in slowing vehicles down.

Council Member Mosher felt that moving the water line may "create a nightmare" due to other utility lines that might be involved. He stated there should be a compromise if the City was requiring the developer to move water lines. He agreed with Council Member Powers' suggestion to relocate some of the parking and move the building as close to the edge of the easement as possible. He suggested that the cinema could also be located in the middle with retail stores on both the south and north sides to have a better flow.

Council Member Powers made a motion to remand the site plan review to the Design Review Advisory Committee and to the Planning and Zoning Commission with instructions that allow one row of limited parking in front of the retail stores, given the constraints of the water line and suggest a compromise plan be worked out to bring the building as far forward as possible and review the possibility to re review on street parking and consider relaxing parking standards if applicant can not meet the parking requirements. Council Member Mosher seconded the motion. The motion passed with all in favor.

PUBLIC WORKS REPORT

Sue O'Connor – Towing and Snow Ordinance

Tony Liford, Teton County Sheriff, wanted to clarify his role regarding snow tows for the City of Driggs. He stated the dispatchers take the calls from the City of Driggs to tow vehicles and then notify the tow company. He wanted to make sure that the Council

understood that the sheriff's office did not tow cars unless they were notified to do so by the City.

Jared Gunderson spoke. He stated that there have been several announcements in the water bills and in the newspaper regarding the ordinance. During the snowstorm last Thursday, Jared called Q102 to make several announcements that vehicles would be towed if they remain on the street from midnight to 6am.

While Jared was plowing that night he came across two vehicles in Creekside Meadows. He called dispatch and had them call the tow company to have them tow, along with other cars, in accordance to the ordinance.

The two vehicles in Creekside Meadows belonged to Sue O'Connor and her husband. They stated they were given permission from someone in Creekside Meadows to park there. Sue lives in the county and has parked in said area before, in order to get to her house when 100 East has not been plowed. Jared concluded by asking the Council if they wanted him to "uphold the ordinances or not."

Sue O'Connor spoke to the Council. She explained her reasoning behind parking in Creekside Meadows. Due to the condition of the county road, she and her husband decided to park in Creekside Meadows and walk to their house. She stated that nobody in Creekside Meadows had given her permission to park there, but she had a few neighbors that had done so in the past. When she had parked on the street previously, she called the sheriff to notify them. However, this time she forgot.

She explained a conversation with Mayor Louis Christensen who stated that the ordinance needed to be upheld, which required a vehicle to be towed if parked on a city street between midnight and 6am. She felt she was "caught in a crossfire" because her actions were unintentional. She reported having to pay a towing fee of over \$300.

She did not understand why nobody had tried to figure out who owned the cars prior to towing them, stating they would have come to get the vehicles had they known they were going to be towed. Council Member Dye stated "in Jared's defense, he is unable to find out the owners of vehicles."

Sue admitted that she was aware of the ordinance but stated she didn't realize the street was a public street and felt she "deserved a courtesy call." Council Member Powers responded, stating that Jared was not able to stop plowing to research whose vehicles are violating the ordinance. He concluded by stating that the city needed cooperation and that every year residents are notified of this ordinance.

Council Member Dye emphasized that Sue needed to call the Sheriff's office in the future. She understood that and stated "I won't forget but I don't feel safe to park there anymore," Jared Gunderson stated that he could identify her vehicles and had told Sue she was able to park in Creekside Meadows on an emergency basis.

Stephen Zollinger stated that the City had no way of know that 100 East did not get plowed, causing Sue to park in Creekside Meadows. He questioned Sue as to how asking the City to pay for the towing fee “made it right.” He did not feel the City should pay for doing nothing wrong and upholding the ordinance. “You’re asking us to pay a debt that was incurred by you inadvertently,” Zollinger stated. Sue continued to state that she did not feel it was fair.

Stephen Zollinger went on to explain what Sue needed to do in the future, which included calling the Sheriff. He also suggested asking a neighbor in Creekside if she could park her car in their driveway during storms. Sue stated she talked to the County Road and Bridge to see if 100 East could be a priority to plow and felt she “got nowhere.”

Sheriff Liford stated that dispatch would make a list of cars that are parked in the streets due to emergencies. When Public Works calls to have a car towed, dispatch would refer to the list first before calling a tow company.

Marked Cross Walks

Council Member Powers asked Jared Gunderson if there was a plan for marking pedestrian crosswalks. Jared stated that it was in the road budget to do so and will place orange barrels on the side of the street until spring when they can paint the roads.

PLANNING AND ZONING REPORT

Doug Self reported on the stimulus funding. He stated for Surface Transportation there would be a “cap” of one project per jurisdiction for \$500,000. The City could submit the Fifth Street Sidewalk project and had interest in doing the Fifth Street/Ross Avenue/Wallace Way pavement seal project. He also expressed desire to do the S. Fifth Street pavement. He questioned which project the Council wanted to pursue.

Council Member Mosher expressed appreciation to Doug for working on this package in a timely manner. Doug stated that projects need to have plans submitted and plans for the Fifth Street sidewalk was available.

Council Member Mosher suggested paving South Fifth Street and having Safe Routes to School Project possibly help with the sidewalk. Council Member Dye felt the amount of children walking on Fifth Street to and from school constituted an importance in getting the sidewalk done. Council Member Jones questioned when the Safe Routes to School fund could be applied for again. Doug replied that could be done in 2011 where as the stimulus funding would be available this year.

It was determined that paving South Fifth Street would be the most beneficial. Doug will send out a bid for the design and engineering of this project.

MAYORS REPORT

Mayor Louis Christensen stated that flyers were made for the Complete Count Committee Program for the 2010 Census and asked the Council Members to distribute them to those they feel may be interested in sitting on the committee.

Mayor Christensen spoke to Jim from District 7 Health Department. Radon prevention was discussed and the Mayor stated at this time, the City of Driggs does not require radon mitigation.

Council Member Mosher made a motion to formalize an amendment to the ordinance to include radon abatement in the building code. Council Member Powers seconded the motion. The motion passed unanimously.

Arbor Day is scheduled for May 16, 2009. The City of Driggs is partnering with Silver Star again and MD Nursery is participating and holding a program similar to last year. The City will serve hot dogs and hamburgers and the tree committee is beginning to get donations from the community.

EXECUTIVE SESSION

Council Member Jones made a motion to go into executive session at 10:13pm pursuant to Idaho Code 67-2345(f). Council Member Mosher seconded the motion. Schuehler took a roll-call vote: Dan Powers, aye; Greer Jones, aye; George Mosher, aye; Colin Dye, aye. The motion carried unanimously.

The Council came out of executive session at 10:22pm.

ADJOURNMENT

Council Member Jones made a motion to adjourn. Council Member Dye seconded the motion. The motion passed with all in favor and the meeting was adjourned at 10:23pm.

ATTEST:

Sonya Adams, City Clerk

Louis B. Christensen, Mayor