

MINUTES OF THE VERNAL CITY COUNCIL REGULAR MEETING HELD
MARCH 17, 2010 at 7:00 p.m. in the Vernal City Council room, 447 East Main, Vernal,
Utah 84078.

PRESENT: Councilmembers Cal Dee Reynolds, Ted Munford, Bert Clark, Sonja Norton and JoAnn Cowan and Mayor Gary Showalter.

INVOCATION OR UPLIFTING THOUGHT: The invocation was given by Councilmember Cal Dee Reynolds.

PLEDGE OF ALLEGIANCE: The Pledge of Allegiance was led by Mayor Gary Showalter.

APPROVAL OF CITY COUNCIL MINUTES OF MARCH 3, 2010: Councilmember Clark moved to approve the minutes of March 3, 2010 with the correction of one name. Councilmember Sonja Norton seconded the motion. The motion passed with Councilmembers Munford, Cowan, Norton, and Clark voting in favor. Councilmember Reynolds abstained from the vote.

REQUEST FOR FUNDING OF GRADUATION EVENING ACTIVITIES: Shelly Chivers and Kalynn Barton thanked the Council for their past support of the graduation night activities. Kalynn Barton explained that the purpose of this event is to encourage the graduates to have a memorable and safe evening of activities. Last year the event was held at the Recreation Center and included a hypnotist, mechanical bull, joisting, fear factor challenge, sumo wrestling, dancing and prizes. The evening was a huge success and had great parental and community support. Mayor Showalter asked what percentage of the senior class attended. Kalynn Barton stated that 72% of the graduating class participated. Mayor Showalter stated that it is important for the City to support this program. Councilmember Clark stated that the Recreation Center budgeted \$3000 to keep the staff at the center throughout the night. Shelly Chivers requested the City contribute \$2500 to this event which is the same amount as last year. Councilmember Sonja Norton moved to sponsor the Uintah High graduation night activities in the amount of \$2500. Councilmember Reynolds seconded the motion. A roll call vote was held as follows:

Councilmember Cal Dee Reynolds aye;
Councilmember Sonja Norton aye;
Councilmember Ted Munford aye;
Councilmember JoAnn Cowan aye;
Councilmember Bert Clark aye.

The motion passed with a unanimous vote.

REQUEST FOR FUNDING FOR EMERGENCY MANAGEMENT VISTA WORKER: Michelle Dana, Uintah County emergency management director, explained that the County receives a grant in the amount of \$31,000 to provide an emergency management program. The program requires a lot of liaison work, and another employee is needed to help with all the community service needs. Michelle explained that AmeriCorps Vista is willing to provide child care, health benefits and pay off student loans or pay a small stipend to a volunteer to work with community outreach programs to be better prepared for disasters, but there is still not enough funding. She asked the City to consider contributing \$2100 to help fund the Vista volunteer. Councilmember Munford stated that the Public Safety Committee discussed this request and supports helping fund

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the Vista worker. Councilmember Cowan stated that she has worked with the Vista program before and they provide good workers that benefit the community. After further discussion, Councilmember JoAnn Cowan moved to fund the \$2100 for the Vista volunteer to show support and commitment to emergency preparedness efforts. Councilmember Ted Munford seconded the motion. The motion passed with the following roll call vote:

- Councilmember JoAnn Cowan aye;
- Councilmember Ted Munford aye;
- Councilmember Cal Dee Reynolds aye;
- Councilmember Sonja Norton aye;
- Councilmember Bert Clark aye.

INTRODUCTION OF NEW POLICE OFFICER SHAWN LEWIS: Chief Dylan Rooks explained that Officer Shawn Lewis initially worked for Vernal City and left to go work for Adult Probation and Parole, but came back to work for Vernal City. In 2009 Shawn retired with 20 years in law enforcement and went to work for Uintah County. Now he has been rehired, again, to work for the Vernal City police department. Shawn Lewis stated that he is happy to be working for Vernal City. The Council and Mayor welcomed Shawn back to employment with Vernal City.

PUBLIC HEARING: REQUEST TO VACATE 400 EAST STREET - ORDINANCE NO. 2010-05: Ken Bassett reminded the Council that approximately a month ago they discussed the legal process to vacate 400 East Street from Main Street to 100 South where the City office building will be placed. The adjoining property owners, Uintah County and Ralph Dart, are also willing to deed their portion of the vacated street to the City. Part of the property will be used for landscaping and part of it will be used for parking. Notices were sent out and published to receive public input regarding the street vacation. Councilmember Clark asked if the staff received any questions about this issue. Ken Bassett stated that he has not received any comments. Councilmember Norton asked if there were any utilities that would need to be addressed. Ken Bassett stated that there is an old water line that has been abandoned. Mayor Gary Showalter opened the public hearing and asked for public comment. There were not any public comments. Mayor Gary Showalter closed the public hearing. Councilmember JoAnn Cowan moved to adopt Ordinance No. 2010-05 vacating 400 East Street from Main Street to 100 South. Councilmember Bert Clark seconded the motion. The motion passed with the following unanimous roll call vote:

- Councilmember Cal Dee Reynolds aye;
- Councilmember Sonja Norton aye;
- Councilmember Ted Munford aye;
- Councilmember JoAnn Cowan aye;
- Councilmember Bert Clark aye.

APPEAL BY MARCI ANN BIGELOW-TAYLOR OF CONDITIONAL USE PERMIT GRANTED TO REBECCA BOREN AT 65 SOUTH VERNAL AVENUE FOR BAR / CLUB USE: Allen Parker explained that the municipal code allows an appeal to be filed within 14 days of a decision of the Planning Commission concerning a conditional use permit, and the Appellate Board is the City Council. In this case, Marci Ann Bigelow-Taylor is appealing the approval of a conditional use permit issued to Rebecca Boren to operate a club / bar on south Vernal Avenue in the old Bud’s Sports bar. The zoning in that area is CC-1(commercial) and C-2 (commercial), and

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the C-2 zone requires a conditional use (CUP) for a bar. Further, Allen explained that State statute outlines how a city determines if a conditional use should be approved and the conditions to look at. Councilmember Cowan stated that Mrs. Bigelow-Taylor is challenging whether an alcohol license can be issued that close to her school of dance. Allen Parker stated that the Utah Alcoholic Beverage Commission regulates that issue and the State does have a definition of what is considered a "school". He stated that the Alcoholic Beverage Commission based their decision to issue the license based on that definition. Mayor Showalter stated that Mrs. Taylor needs to have that definition so she is clear on what is considered a school. Also, he stated that he grew up in that neighborhood and that building has been a bar for fifty years. Once a location is established as a bar, it is difficult to convert it to another use. Councilmember Cowan stated that there were other reasons Mrs. Taylor is opposed to having a bar by her business, however, this was a bar before. Councilmember Norton stated that the Planning Commission cannot really deny the permit, but they can place conditions on it, and there was one person who voiced concerns about the smoking and trash at their meeting. Mayor Showalter asked if there had been any complaints since the business opened. Chief Dylan Rooks stated that the police department has not received any complaints. Marcie Ann Bigelow Taylor explained that she is the owner of the All American Dance and Tumbling business that is next door to the bar, but because she is not the property owner, she did not receive any notice for the public hearing on the conditional use. She stated that she is opposed because her clientele is young girls, and the clientele of the bar is old men. She noted that smokers gather in front of the building causing a concern for her and parents of her students. Councilmember Clark suggested she post a sign that no smoking is allowed within 25 feet of the door and asked Ms. Boren to place a smoking receptacle in front of her establishment. Rebecca Boren stated that she does have several receptacles and her staff cleans the parking lot daily. Further, she stated that she is working on finding a more private way for her patrons to smoke and keep the area clean. Councilmember Munford stated he understands the concern and noted that caution is needed when alcohol is involved, impairing judgment close to where young girls are active in learning dance. He suggested Ms. Boren consider changing the time she is open for business. Councilmember Norton asked if these two businesses could work out a schedule. Councilmember Cowan stated that the City has invested in down town Vernal and asked both these businesses to remain active in the community and try to work out their differences. Rebecca Boren stated that she would do her best to make neighboring businesses comfortable. Mayor Showalter stated that he has observed Ms. Boren cleaning the area, and she is sincerely trying to be an asset to the City. He stated that he hoped they could work out an equitable arrangement, and if there are any more concerns to please contact the City again. Councilmember Cowan agreed that if there is a concern regarding the behavior of anyone, not just her customers, to contact the police and get them involved. Councilmember Clark asked the staff to explain the purpose of a conditional use permit. Allen Parker explained that a conditional use is designed to mitigate the impact of two dissimilar businesses in an area, and impose conditions to those differences based on concrete, definable factors. For example, a cabinet shop is noisy and produces emissions. The conditions need to address the noise and fumes. Councilmember Clark asked how the CUP is revoked. Allen Parker stated that if the business does not comply or the use is abandoned for over a year, the conditional use is terminated. Mayor Showalter asked for additional public comments. There were no additional comments. Allen Parker stated that the Council needs to address the appeal by upholding, reversing or amending the conditional use. Councilmember Cowan moved to uphold the conditional use permit for Little B's

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bar. Councilmember Reynolds seconded the motion. Mayor Showalter called for a roll call vote. The Council voted as follows:

- Councilmember Ted Munford aye;
- Councilmember JoAnn Cowan aye;
- Councilmember Cal Dee Reynolds aye;
- Councilmember Sonja Norton aye;
- Councilmember Bert Clark aye.

The motion passed with a unanimous vote.

REQUEST FOR APPROVAL OF VEHICLE LEASE AGREEMENT FOR POLICE DEPARTMENT:

Mayor Gary Showalter explained that this issue was discussed in detail by the Public Safety Committee and it is an interesting lease concept that is in the best interest of the City. Chief Rooks explained that in 2008 the police department entered into a lease agreement with Ken Garff Auto dealership for police fleet vehicles. The five year lease provided eleven new vehicles to the department with an option to terminate after 2 years with residual equity in the vehicles. The cost of the lease is \$89,000 per year with an offset trade-in value of \$94,000 the first year. If the City wants to continue the lease program, the vehicles for next fiscal year will need to be ordered now. If the lease is cancelled, then new vehicles will need to be purchased at a cost of \$22,000 each plus \$10,300 for equipment. Mayor Showalter stated that although he is concerned that the City buys equipment locally, this lease agreement is advantageous because the car dealership has a sales source for 2 year-old vehicles and can offer a better price. He recommended the lease be continued. Councilmember JoAnn Cowan moved to continue the lease agreement with Ken Garff and authorize the vehicles to be ordered immediately. Councilmember Sonja Norton seconded the motion. The motion passed with the following roll call vote:

- Councilmember Cal Dee Reynolds aye;
- Councilmember Sonja Norton aye;
- Councilmember Ted Munford aye;
- Councilmember JoAnn Cowan aye;
- Councilmember Bert Clark aye.

AMENDMENT TO PERSONNEL POLICY FOR STATE RETIREMENT ENROLLMENT ONLY - RESOLUTION NO. 2010-11:

Ken Bassett explained that the Policy Committee of the Utah League of Cities and Towns mentioned that retirement costs are becoming very expensive and local governments have found it necessary to start tapering back on contributing to employee retirement systems. Presently, most City employees are enrolled into two retirement programs – the Utah State Retirement System and supplemental ICMA Retirement Program. The total contribution rate for retirement is 17.9% of an employee’s gross salary. This is a very rich retirement program, but the only system required by law is the Utah State Retirement program. The State Retirement System lost money in the recent downturn of the economy and finds it necessary to increase the rates dramatically in order to provide for financial stability of their systems. Ken explained that in 1981 the City was only contributing to the Utah State Retirement system, and the City Council determined that in lieu of wage increases they would continue the total 17.9% retirement contribution. Then in 1983, it was determined by many local governments that the State system was too expensive and mismanaged and they elected to go with private programs to manage the retirement funds. This created a huge financial liability for the State so the Legislature mandated that local governments

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would participate in the State Retirement System, and the rates decreased from 17.9% to 10.8%, allowing the City to place funds into an additional retirement system for the employees. Over the years this has been considered a fairness issue to maintain the retirement contribution at 17.9% for those employees who accepted the higher benefit in place of wage increases. Most of those employees are no longer with the City. Now, with the rising cost of retirement, Ken recommended the Council immediately amend the retirement policy and only participate in the statutorily required system, dropping the rate to 11.62%. This policy will not save a lot of money for the City in the short run, but will reduce the retirement cost over time. Also, in the future, the State Retirement System will change dramatically reducing the cost as well as the benefits. Councilmember Norton stated that this change only applies to new public employees. Ken Bassett stated that this does not apply to the public safety employees because their State Retirement contribution already exceeds the 17.9% amount and is separate from the public safety system. Councilmember Sonja Norton stated that any newly hired public safety officer will still only receive the State Retirement benefit. Ken Bassett agreed. Councilmember Norton moved to approve Resolution No. 2010-11 changing the retirement contributions for new City employees. Councilmember JoAnn Cowan seconded the motion. The motion passed with Councilmembers Norton, Cowan, Reynolds, Clark and Munford voting in favor for a unanimous vote.

REQUEST FOR AMENDMENT OF VERNAL CITY MUNICIPAL CODE - CHAPTER 8.12 - GARBAGE COLLECTION AND DISPOSAL, SECTION 8.12.080 - COMMERCIAL STORAGE - ORDINANCE NO. 2010-06:

Ken Bassett explained that there have been situations where large dumpsters are being located on public streets for use by individual residents. Normally these dumpsters are rented from the sanitation haulers in the community for short periods of time. This ordinance would not allow these dumpsters to be placed on any road or public right-of-way for safety reasons. Councilmember JoAnn Cowan noted that the long dumpsters are usually used for construction and do not have lids. However, the ordinance requires them to have lids. Mayor Showalter stated that usually these containers are for debris that is heavy and will not blow out. Councilmember Cowan stated that possibly the homeowner does not have anywhere to put a large dumpster during a remodel and maybe a permit could be issued to locate the dumpster on the street for few weeks with reflective lights. Ken Bassett stated he would look at that issue and bring back a recommendation to the Council. After further discussion, Councilmember Bert Clark moved to approve Ordinance No. 2010-06. Councilmember Cal Dee Reynolds seconded the motion. The motion passed with the following roll call vote:

- Councilmember Cal Dee Reynoldsaye;
- Councilmember Sonja Nortonaye;
- Councilmember Ted Munfordaye;
- Councilmember JoAnn Cowanaye;
- Councilmember Bert Clarkaye.

REQUEST FOR APPROVAL OF CHANGE ORDER FOR TWIN D VIDEOING OF SEWER LINE ON NORTH SIDE OF THE CITY:

Ken Bassett explained that the Public Works Committee is recommending the City use remaining funds from the Community Impact Board that was initially awarded for water and sewer projects for related projects. One project that can be completed is the cleaning and videoing of the sewer lines on the south side of the City. A contractor is currently cleaning and videoing the lines on the north side. The cost to add the south side to the

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contract \$83,800. Councilmember Sonja Norton moved to approve the change order to the Twin D Contract to video the north sewer lines. Councilmember Bert Clark seconded the motion. The following roll call vote was held:

- Councilmember Cal Dee Reynoldsaye;
- Councilmember Sonja Nortonaye;
- Councilmember Ted Munfordaye;
- Councilmember JoAnn Cowanaye;
- Councilmember Bert Clarkaye.

The motion passed with a unanimous vote.

ENGINEERING PROPOSALS FOR CIB WATER AND SEWER PROJECTS FOR 2010:

Ken Bassett explained that at the last meeting the Council discussed adding water and sewer proposals using the remaining funds from the Community Impact Board. The engineers have submitted proposals for the design and construction of these extension projects. The water projects will include the installation of three water valves along 1500 West, and a looped 6” water line on 1750 West to 1500 West at a projected cost of \$382,690. The engineering cost for these projects will be \$45,700 which is 11.9% of the project cost. The engineering for the sewer cleaning and video is \$5200. Councilmember Cal Dee Reynolds stated that the Public Works Committee discussed these projects and recommends approval. Councilmember Reynolds moved to approve the engineering for these projects as presented. Councilmember Munford seconded the motion. The motion passed with the following roll call vote:

- Councilmember Cal Dee Reynoldsaye;
- Councilmember Sonja Nortonaye;
- Councilmember Ted Munfordaye;
- Councilmember JoAnn Cowanaye;
- Councilmember Bert Clarkaye.

Mayor Gary Showalter asked what the status is for the intersection of 1500 West and 500 South. Councilmember Bert Clark explained that HADCO Construction had to build a concrete box in that intersection for the new sewer line and will pave the roadway as soon as the weather permits.

CLARIFICATION OF ROAD STRIPING ENGINEERING WORK: Ken Bassett explained that after the last meeting, he spoke with Russ Vernon of Engineering Services and explained that the City would be soliciting proposals for the design work for the road striping project. Ken stated that Russ indicated that would be fine, however, his company had already completed the engineering for this project based on discussions with City staff and all the documents were ready for bidding. Ken suggested the City pay half of the expense for this work considering there was no contract in place when the work was completed. Mayor Showalter stated that on certain engineering projects, the staff needs to remember there are other vendors that should be given the opportunity to submit proposals. Ken Bassett stated that the staff has been made aware of the concern to receive proposals first before an engineering project is awarded. Councilmember Cal Dee Reynolds asked what the engineering cost is for this project. Ken Bassett stated the cost is \$2800 and the City would pay \$1400. Councilmember Reynolds stated that it is the City’s fault they completed the work, and they should not be punished for it. Councilmember Munford agreed that full payment should be made to Engineering Services and the staff should solicit proposals for engineering services in the future.

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After further discussion, Councilmember Cowan moved to have Engineering Services complete the engineering on the street striping project at a cost of \$2800 and solicit proposals in the future. Councilmember Cal Dee Reynolds seconded the motion. The motion was voted on with the following roll call vote:

- Councilmember Cal Dee Reynolds aye;
- Councilmember Sonja Norton aye;
- Councilmember Ted Munford aye;
- Councilmember JoAnn Cowan aye;
- Councilmember Bert Clark aye.

REQUEST FOR APPROVAL OF INTERLOCAL AGREEMENT WITH UINTAH TRANSPORTATION SSD FOR CULVERT PROJECT - RESOLUTION NO. 2010-12:

Ken Bassett explained that the Uintah Transportation Special Service District is requesting that the City incorporate moving the irrigation ditch along 500 South as part of the storm drain and sewer projects currently being completed. The District will pay all the costs to have the City contractor, Silver Spurs Construction, complete this work. Ken brought the Council’s attention to the draft Interlocal Agreement between Vernal City and the Uintah Transportation District for this project. He explained that there is one correction to the Interlocal agreement, and signature blocks are needed for the attorney’s. Councilmember Ted Munford moved to approve Resolution No. 2010-12, the Interlocal Agreement with the Uintah Transportation District for the culvert project with the correction. Councilmember Cal Dee Reynolds seconded the motion. Mayor Showalter called for a roll call vote and the Council voted as follows:

- Councilmember Cal Dee Reynolds aye;
- Councilmember Sonja Norton aye;
- Councilmember Ted Munford aye;
- Councilmember JoAnn Cowan aye;
- Councilmember Bert Clark aye.

PROPOSAL FOR ENGINEERING SERVICES FOR CULVERTING PROJECT WITH UINTAH TRANSPORTATION DISTRICT AND APPROVAL OF CHANGE ORDER WITH SILVER SPUR CONSTRUCTION FOR CULVERTING:

Ken Bassett explained that the additional work, as just discussed, will require the engineering and construction contracts to be amended. The total cost of the additional work has not been computed, so the Council will be contacted when those costs are available. The consensus was to contact the Council for a phone poll and ratify the contract changes at the next meeting.

REQUEST FOR AMENDMENT TO THE VERNAL CITY MUNICIPAL CODE, PLANNING & ZONING CHAPTER 16.28 - SIGN REGULATIONS - ORDINANCE NO. 2010-02:

Allen Parker explained that after the public hearing was held to update the sign regulations, Ordinance No. 2010-02 was revised incorporating the comments received from the Council. Councilmember Norton stated that the Planning Commission did not want to be too restrictive so businesses could place signs to be seen along Highway 40. Allen Parker explained that one concern that was addressed was the maximum size and height of pole signs which is 300 feet. Also, if a sign is found to be unsafe, a policy is needed for the City to address the problem. He stated that it is important to protect the public and provide due process to the property owner. Allen then showed the Council

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several signs so they would have a better understanding of the dimensions. The largest multi-tenant commercial sign is placed on the Diamond Mountain complex and is 280.5 square feet, and the K-Mart sign is the tallest at 40 feet. This ordinance would restrict electronic changeable signs to 50 square feet. He clarified that the total sign could be larger with only the electronic section being 50 feet. After further clarification, Councilmember Bert Clark moved to approve Ordinance No. 2010-02. Councilmember Ted Munford seconded the motion. The motion passed with the following majority roll call vote:

- Councilmember Cal Dee Reynolds aye;
- Councilmember Sonja Norton aye;
- Councilmember Ted Munford aye;
- Councilmember JoAnn Cowan nay;
- Councilmember Bert Clark aye.

ADMINISTRATIVE REPORTS:

Lighting Project:

Councilmember Bert Clark asked for an update on the lighting project. Allen Parker stated that the specifications are almost complete for the horizontal drilling that is needed to install the cable for the lights. Bids should be requested within the next few weeks.

Utah League of Cities and Towns Conference:

Ken Bassett reminded the Council that the ULCT conference is scheduled for April 7-9th in St. George, Utah. Councilmembers Clark, Norton and Reynolds indicated they would be attending.

Sales Tax:

Mike Davis displayed sales tax charts showing the drop in revenue beginning in 2009. He stated that he computed the trend to project the revenue for the remainder of 2010, and the projection is close to the revenue collected in 2005. Mayor Showalter asked for an update on the sales tax every meeting.

ADJOURN: There being no further business, Councilmember Clark moved to adjourn. Councilmember Sonja Norton seconded the motion. The motion passed with a unanimous vote and the meeting was declared adjourned.

Mayor Gary Showalter

ATTEST:

Roxanne Behunin, Deputy Recorder

(S E A L)