

COUNCIL MEMBERS:

SHAWN BARIGAR	DON HALL	SUZANNE HAWKINS	GREGORY LANTING	JIM MUNN, JR.	REBECCA MILLS SOJKA	CHRIS TALKINGTON
<i>Vice Mayor</i>			<i>Mayor</i>			



MINUTES
Meeting of the Twin Falls City Council
Monday, November 25, 2013
City Council Chambers
305 3rd Avenue East -Twin Falls, Idaho

5:00 P.M.

PLEDGE OF ALLEGIANCE TO THE FLAG
CONFIRMATION OF QUORUM
INTRODUCTION OF STAFF
CONSIDERATION OF THE AMENDMENTS TO THE AGENDA: None
PROCLAMATIONS: None

AGENDA ITEMS	Purpose	By:
I. <u>CONSENT CALENDAR:</u>		
1. Consideration of a request to approve the accounts payable for November 19-25, 2013.	Action	Sharon Bryan
2. Consideration of a request to approve the October 17, 2013 and November 13, 2013, City Council Minutes.	Action	Leila A. Sanchez
3. Consideration of a request to approve the Findings of Fact, Conclusions of Law, and Decision for Annexation for the City of Twin Falls.	Action	Mitchel Humble
4. Consideration of a request to approve a Beer and Wine License ownership transfer Jeremy Sudik dba Scooter's, 137 2nd Avenue East.	Action	Sharon Bryan
II. <u>ITEMS FOR CONSIDERATION:</u>		
1. Consideration of a request to approve the November 5, 2013, election results and Twin Falls County's Canvass.	Action	Sharon Bryan
2. Consideration of a request to approve the independent contractor contract with Wonderlich and Wakefield for City Attorney services as defined in Idaho Code Section 50-208A.	Action	Travis Rothweiler
3. Consideration of a request to approve a resolution declaring a policy of transparency and openness in city government.	Action	Don Hall/ Jim Munn
4. Discussion on the "Jump the Canyon" Request for Qualifications proposals.	Discussion	City Council
5. Public input and/or items from the City Manager and City Council.		
III. <u>ADVISORY BOARD REPORTS/ANNOUNCEMENTS:</u>		
IV. <u>PUBLIC HEARINGS:</u> None		
V. <u>ADJOURNMENT:</u>		

Any person(s) needing special accommodations to participate in the above noticed meeting could contact Leila Sanchez at (208) 735-7287 at least two working days before the meeting. Si desea esta información en español, llame Leila Sanchez (208)735-7287.

Present: Shawn Barigar, Don Hall, Suzanne Hawkins, Greg Lanting, Jim Munn, Rebecca Mill Sojka, Chris Talkington
Absent: None
Staff Present: City Manager Travis Rothweiler, City Attorney Fritz Wonderlich, Assistant to the City Manager Mike Williams, PIO Josh Palmer, Deputy City Clerk Sharon Bryan, Deputy City Clerk/Recording Secretary Leila A. Sanchez

Mayor Lanting called the meeting to order at 5:00 P.M. He then invited all present, who wished to, to recite the pledge of Allegiance to the Flag with him. A quorum was present. Mayor Lanting introduced staff.

CONSIDERATION OF THE AMENDMENTS TO THE AGENDA: None
PROCLAMATIONS: None

AGENDA ITEMS

I. CONSENT CALENDAR:

1. Consideration of a request to approve the accounts payable for November 19-25, 2013, total: \$374,121.70. Payroll, November 22, 2013, \$115,934.44
2. Consideration of a request to approve the October 17, 2013 and November 13, 2013, City Council Minutes.
3. Consideration of a request to approve the Findings of Fact, Conclusions of Law, and Decision for Annexation for the City of Twin Falls.
4. Consideration of a request to approve a Beer and Wine License ownership transfer to Jeremy Sudik dba Scooter's, 137 2nd Avenue East.

MOTION:

Vice Mayor Hall made the motion to approve the consent calendar as presented. The motion was seconded by Councilperson Hawkins and roll call vote showed all members present voted in favor of the motion.

II. ITEMS FOR CONSIDERATION:

1. Consideration of a request to approve the November 5, 2013, election results and Twin Falls County's Canvass

Deputy City Clerk Sharon Bryan explained the request.

State Code 34-1410 requires that the County Clerk certify the election results to the city. The election results by precinct must be included in the council meeting minutes in November or December.

The election results declared the winners as follows:

Seat 1 Suzanne Hawkins with 1,007 votes
Seat 6 Don Hall with 1,337 votes
Seat 5 Gregory L. Lanting with 1,281 votes

Mayor Lanting stated that Sharon Bryan was honored at the AIC Training for New Officials for serving the City of Twin Falls for 37 years.

MOTION:

Councilperson Munn made the motion to accept the election results by precinct as indicated by the City Clerk. The motion was seconded by Councilperson Barigar and roll call vote showed all members present voted in favor of the motion. Approved 7 to 0.

2. Consideration of a request to approve the independent contractor contract with Wonderlich and Wakefield for City Attorney services as defined in Idaho Code Section 50-208A.

City Manager Rothweiler explained the request.

During the development of the FY 2014 Budget, members of the City Council asked to review the City Attorney contract. As a part of that process, they asked the City Attorney to share his workload and tasks to get a true idea of what he and the Firm do for the City. Additionally, the City Attorney requested the City explore the possibility of increasing the Firm's compensation package to be more

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reflective of the level of compensation that his peers receive and more commensurate with the Firm's legal experience. The City Attorney is appointed by and works under the general direction of the City Council. Fritz Wonderlich has served as the City Attorney from 1983 to 1985 and from 1987 to the present. The Firm has provided prosecutorial services since 1989.

A committee was established and charged with the tasks of reviewing the performance of the Firm (Wonderlich & Wakefield) and addressing the compensation issue. The committee included Twin Falls City Council members Don Hall, Shawn Barigar, and Suzanne Hawkins, and City Staff Travis Rothweiler and Susan Harris. The committee has discussed and reviewed the current workload with the City Attorney, discussed the Firm's strengths and opportunities with internal and external partners, and reviewed the compensation issue.

The contract recommends an immediate compensation adjustment of \$75,000. New effective compensation for Firm would be \$266,580, an increase of 43.32% over FY 2013 compensation and 39.15% more than what was budgeted for FY 2014. In each of the next four years, the City will commit to provide a 5.0% annual adjustment.

Vice Mayor Hall stated that he met with County Prosecutor Grant Loebs, who stated that it would take two attorneys to prosecute and adjudicate the City of Twin Falls cases. The committee found that the cost for services would be more than what the contract is offering the Firm.

Council discussion followed:

- Criteria of the cities chosen for comparison to receive the per capita costs
- Concept of the prosecutor side of the contract
- Bond hearings and sentencing

Fritz Wonderlich stated that he does not attend bond hearings or sentencing hearings nor does the County prosecutor. The judges set the bond and set the sentencing. The City Attorney does not have any influence at the bond and sentencing hearings.

Councilperson Hawkins said that various City department heads stated the importance of Fritz Wonderlich being accessible at all hours and days of the week and the importance of the consistency level the Firm brings. The committee also looked at the cost of hiring in-house attorneys doing prosecution work only or hiring it out by contract, and it was found that there was no way to get the same level of service with the same price that the Firm is offering.

Councilperson Barigar commented that the expertise the Firm brings the City serves the needs of internal staff and the Council that uses those services and as a result benefits the citizens of Twin Falls. Through this process it became evident very quickly that no matter what tool was used to measure compensation, there is inequity in the compensation for the services received compared to like services in other cities. This was an opportunity to review performance and talk to various departments about opportunities for improvement. Discussions were made with the Police Department in regards to the Firm's absence at bond hearings and sentencing and it was found that that time factor was an issue. The committee also reviewed the Firm's performance and found that there are opportunities for the Firm to make improvements.

Council discussion followed.

Councilperson Munn stated that he has worked with Fritz Wonderlich for 26 to 27 years, and he considers the proposed increase well deserved.

Councilperson Talkington stated that the Council has neglected the position and had not understood the full scope or complexity of the attorney's responsibilities.

Mayor Lanting stated that the City Attorney's contract should have been reviewed at the time of the employee salary survey. He stated he understands that the City Attorney has been underpaid for quite some time.

MOTION:

Vice Mayor Hall made the motion to approve the independent contract as listed in the staff report for Wakefield & Wonderlich for the City Attorney services as defined in Idaho Code Section 50-208(A), and to authorize the Mayor to sign the contract. The motion was seconded by Councilperson Munn.

City discussion followed.

Councilperson Mills Sojka stated her concern of a 43% increase to the City Attorney contract in the middle of the fiscal year. She stated if she had more data that compared the services that other cities are receiving to what the citizens of Twin Falls are receiving she could make a more confident decision. She is not sure of committing Councils five years in the future to a certain succession plan or an automatic 5% increase in the contract every year. She understands that the County prosecutors attend sentencing and bond hearings and believes it makes a difference whether criminals are put away.

Councilpersons Hawkins, Munn, Barigar, Talkington, Lanting, and Hall voted in favor of the motion. Councilperson Mills Sojka voted against the motion. Approved 6 to 1.

3. Consideration of a request to approve a resolution declaring a policy of transparency and openness in city government.

Vice Mayor Hall explained the request. He stated that it is appropriate to discuss transparency and openness in city government and to hold elected officials accountable to insure what is being done is legal and right and citizens have access to officials' decisions and decision making.

He highlighted portions of the proposed resolution:

- *The Twin Falls City Council finds that transparency in government promotes accountability and provides information to its citizens regarding the business of the City;*
- *The Twin Falls City Council finds that collaboration and communication between City government and its citizens is enhanced through the use of well-designed web technologies; and*
- *The Twin Falls City Council finds that the minimum requirements of the Idaho Open Meeting Law, the Idaho Public Records Law, and other statutes, are inadequate to provide the transparency and openness that it finds should be provided to its citizens in order to permit them to constructively engage with City government.*
- *In order to provide more transparency in City government, no Council member will serve with any other Council member on any committee or commission related to the City's business and with authority to make recommendations to the Council, unless that committee or commission is created by a vote of the City Council. All such committees and commissions shall always comply with all requirements of the Idaho Open Meeting Law, as well as the other provisions of this Resolution.*
- *The City will stream and video record all Council and commission meetings (excepting Council executive sessions, Airport Advisory Commission meetings, which meets at the Airport, and the Youth Council),*
- *The City will provide access to the annual budget, monthly financial reports, accounts payable, financial dashboard, the comprehensive Plan and Future Land Use Map, the Transportation Plan, the Water Plan, the Strategic Plan, the Twin Falls City Code, the Zoning Map, the Subdivision Map, the Pressure Irrigation Map, the Garbage Pickup and Recycling Map, the Flood Plain Map, and such other documents*
- *The Idaho statutes have no requirements for contact information for public officials.*
- *The City will post current bidding and job opportunities on the City's website.*
- *The City will provide, on its website at (www.tfid.org), the opportunity for citizens to subscribe to notifications, alerts, job openings, news, and meetings, so that the information is emailed or sent via text message directly to the subscriber on a regular basis.*
- *The City Council finds that the Idaho statutes relating to the conduct of the business of local government have fallen far behind the technology currently available to provide greater transparency and openness to the legislative and administrative process of local government.*

Councilperson Munn explained what is being proposed in the resolution and what was presented in the failed resolution presented to the Council on November 13, 2013.

Failed Resolution verbiage:

- *That henceforth, all committees, sub-committees, and work groups of the Twin Falls City Council or any of its commissions or committees, whether created by action of the city council or any of its commissions, or by appointment of the Mayor or chairman of any city commission or committee, shall publicly notice and post their meetings in advance, keep written minutes of the meetings, and open such meetings to the public, except as otherwise provided in the Idaho Open Meeting Law.*

Proposed verbiage:

- *In order to provide more transparency in City government, no Council member will serve with any other Council member on any committee or commission related to the City's business and with authority to make recommendations to the Council, unless that*

committee or commission is created by a vote of the City Council. All such committees and commissions shall always comply with all requirements of the Idaho Open Meeting Law, as well as the other provisions of this Resolution.

He stated that in the spirit of the failed resolution the verbiage in the proposed resolution addresses concerns regarding ad hoc volunteer groups.

- o *Section 3: The City Council acknowledges that, from time to time, ad hoc volunteer groups may form, without the authority of statute, ordinance, or other legislative act, and without authorization to make decisions or recommendations.*

Council discussion followed:

Councilperson Talkington stated that he would like to discuss the resolution but recommended that an action not be taken. He stated he would be in support of no ad hoc volunteer groups.

Councilperson Mills Sojka stated that Section 3 of the proposed resolution is close to the resolution that failed. Section 3 of the proposed resolution does not address committees that don't have power to make a recommendation. From time to time ad hoc committees will form. She would not be in favor of circumventing the Open Meeting Law by having the Mayor create a committee. She recommended that the wording be changed to say that the City Council acknowledges that committees must be formed by the full Council by act, resolution or legislative motion.

She stated that the following verbiage in the resolution is not relevant, "...no Council member will serve with any other Council member on any committee or commission related to the City's business and with authority to make recommendations to the Council..."

Vice Mayor Hall stated for the record and in response to Councilperson Tarkington's comments that he did say that he believes the Council is making a mountain out of molehill and still feels that way to a certain extent and takes exception to the comment "welcome aboard" that we are now looking at transparency. He stated that he does not believe that any member of the City Council is trying to hide anything or is being anything less than transparent.

Mayor Lanting stated that he can support Section 3 of the proposed resolution. He stated that he formed the majority of the committees in question to decide who to appoint to the Planning & Zoning Commission, Historic Preservation Commission and the URA Board. By Idaho Code Statute the Mayor is allowed to appoint commission members and the appointment is confirmed by the Council. He explained the appointment process he has used the past two years. He does not believe interviewing volunteers to a commission should be open to the public.

Councilperson Barigar stated he believes that the City Council meeting held on October 21, 2013, on Open Meeting Laws, was not as confrontational as stated in the media. It is important to stay on the larger issue, which is a collective commitment to transparency and openness. The proposed resolution shows that the Council desires to go beyond the Open Meeting Laws. He stated he is in favor of establishing a process and moving forward.

Council discussion followed:

- ZOAC, Citizens Committee on Infrastructure (Wastewater Bond), Wastewater Contract Review, City Manager Review, City Attorney Review, Canyon Jump Committee, Municipal Powers Outsource Grant, Council Finance Committee, Commission Appointments
- Extensive discussion followed on the definition of a committee
- Economic Development Committee

Councilperson Hawkins stated that she believes she was taken out of context when she spoke on needing to be trusted. She clarified that she has nothing to hide, her life is an open book, and she is known for her character and what she stands for. She has been elected to the Council to represent the community and make decisions and work on issues for the citizens.

NO ACTION TAKEN. The proposed resolution will be placed on the Council agenda on December 2, 2013.

Councilperson Hawkins recommended the Zoning Ordinance Amendment Committee (ZOAC) be placed on the agenda to consider creating the committee.

The Council recessed at 6:37 P.M.

The Council reconvened at 6:48 P.M.

4. Discussion on the "Jump the Canyon" Request for Qualifications proposals.

Councilperson Talkington asked the Council to consider the following ideas:

- Should Twin Falls allow a jump using City property and if the answer is no, the process is not necessary unless to hear applicant appeals.
- If the Council chooses to allow the jump should the jump be limited to one or more than one jump?
- Request from the applicant a full action plan

-Creation of a licensing requirement.

Scott Record, Twin Falls, spoke in favor of Ed Beckley, and discussed the hiring of a consultant.

Leon Mills, County Commissioner, spoke in favor of Ed Beckley.

Tim Norris, Area of Impact, asked who determines which proposal is technically feasible.

Victoria Wakewood, County of Twin Falls, stated her concern on the annexation of property.

Mayor Lanting stated that the City annexes City owned property only.

Mr. Morley, Jerome County Commissioner, stated that after reviewing the County's ordinances it was found that Jerome will have a significant expense in the jump. He requested the City Council meet with the Jerome County Commissioners.

Councilperson Barigar stated that the lease signed by Beckley has a clause stating that within 60 days of execution of the lease the successful lessee is to have permission from all governmental agencies with approvals, specifically the City of Twin Falls and Jerome County. He asked Mr. Morley if he has been contacted prior to last week's meeting. Mr. Morley stated that he does not believe so.

MOTION:

Councilperson Talkington made a motion that Twin Falls City allows a Snake River jump concept(s) using City property in the year 2014. The motion was seconded by Councilperson Barigar and roll call vote showed all members present voted in favor of the motion. Approved 7 to 0.

Council discussion followed.

Councilperson Barigar stated that he sees the Council role as (1) discussion of some negotiated agreement to use City owned property or some activity, and (2) permitting that activity and perhaps other peripheral ones but not conducting the event. He stated discussion be made on permitting an event to protect public health and safe, set criteria for a positive marketing image, and to assure this is a safe and sane event concept.

Council discussion followed.

-Department of Land process

-Memorandum from Beckley Media regarding possible litigation

MOTION:

Councilperson Mills Sojka made a motion to move forward and ask those questions laid out by Councilperson Barigar of Beckley Media, and move forward to planning the jump with the successful applicant who has landing rights on the other side. The motion failed due to a lack of a second.

Councilperson Munn asked what process was used by the City of Twin Falls when persons inquired on jumping the canyon.

Councilperson Barigar explained that 30 to 40 agencies met to discuss the canyon jump approximately 8 to 9 years ago. The overall consensus of the agencies was to direct those interested in jumping the canyon to the Department of Lands, because they had a process in place and not that an approval by the Department of Lands is a prerequisite for approval.

City Manager Rothweiler explained that the Department of Lands chose to go through a bidding process for the lease.

Councilperson Barigar stated approximately 3 to 4 years ago, a previous rendition of the current REO Group went to the State, submitted an application, negotiated a lease, secured the lease, and held the lease rights for two years, and the lease expired. This was the precedent agencies used. Agencies were unaware of a change in State Code based upon a Supreme Court Ruling from couple of years ago. The REO group submitted an application to the state, the State then advertised the availability of the land for the same use to other interested parties for a period of time (2 to 3 weeks), during which the State received four applications. The State solicited information from the applicants, received their proposals, drafted a non-negotiable lease, requiring a \$25,000 cash, and then had a live auction. Ed Beckley was the highest bidder at \$943,000. The \$943,000 secured the right to sign the lease. The \$943,000 is not part of the lease itself but is referred to as a bonus bid. The lease started on November 1, 2013.

City Manager Rothweiler stated he met with Ryan Lay, State Board of Lands, and with other individuals on how to construct a process that is mutually beneficial to all the parties. The purpose of the Endowment Lands is to earn money for the School Trust. The State gave the City the opportunity to review the lease. The City Attorney Wonderlich was able to insert the language that the lessee would need to work with and secure the approvals of Jerome City and Jerome County and any other entities

MOTION:

Councilperson Talkington made the motion to allow more than one applicant for the proposed Snake River Jump using City property in 2014. The motion was seconded by Councilperson Mills Sojka. Councilperson Talkington voted in favor of the motion. Councilpersons Barigar, Hall, Hawkins, Lanting, Munn and Mills Sojka voted against the motion. Failed 1 to 6.

MOTION:

Vice Mayor Hall made the motion to begin deliberations and decide a ranking structure of the five applicants. The motion was seconded by Councilperson Hawkins and roll call vote showed Councilperson Hall, Hawkins, Lanting, and Mills Sojka voted in favor of the motion. Councilperson Barigar, Munn, and Talkington voted against the motion. Approved 4 to 3.

MAIN MOTION:

Councilperson Talkington made the motion to negotiate the ranking starting with Beckley Media, REO Development, Adrenaline Nation, and Ping Pong. The motion was seconded by Councilperson Mills Sojka.

AMENDMENT TO THE MOTION:

Councilperson Hawkins made an amendment to the main motion to begin negotiations with Beckley Media and make separate motions to vote on the ranking of Reo Development, Adrenaline Nation, and Ping Pong. The motion was seconded by Councilperson Munn. Roll call vote showed Councilpersons Hall, Hawkins, Lanting, Munn voted in favor of the motion. Councilpersons Barigar, Mills Sojka, and Talkington voted against the motion. Approved 4 to 3.

AMENDMENT TO THE MAIN MOTION AS AMENDED:

Councilperson Barigar made the motion to complete negotiations with Beckley Media by January 31, 2014 and for this to be brought to Council for consideration no later than February 3, 2013, and if an agreement has not been reached within the time frame to negotiate with the next applicant. The motion was seconded by Councilperson Munn. Roll call vote on the amendment to the motion showed Councilpersons Barigar, Hall, Hawkins, Lanting, Munn and Talkington voted in favor of the motion. Councilpersons Mills Sojka voted against the motion. Approved 6 to 1.

ROLL CALL VOTE ON THE MAIN MOTION AS AMENDED:

To begin negotiations with Beckley Media and to make separate motions to rank REO Development, Adrenaline Nation, and Ping Pong and to complete negotiations with Beckley Media by January 31, 2014, and to be brought to Council for consideration no later than February 3, 2013. If an agreement has not been reached with Beckley Media to negotiate with the next applicant. Roll call vote showed Councilpersons Hall, Hawkins, Lanting, Munn, Mills Sojka and Talkington voted in favor of the motion. Councilperson Barigar voted against the motion. Approved 6 to 1.

MOTION:

Vice Mayor Hall made the motion that REO Development be ranked number 2. The motion was seconded by Councilperson Mills Sojka and roll call vote showed all members present voted in favor of the motion. Approved 7 to 0.

MOTION:

Councilperson Talkington made the motion that the applicant criteria would require a \$1,000,000 surety bond. The motion was seconded by Councilperson Barigar. Roll call vote showed Councilperson Talkington voted in favor of the motion. Councilpersons Barigar, Hall, Hawkins, Lanting, Munn and Mills Sojka voted against the motion. Failed 6 to 1.

MOTION:

Councilperson Hawkins made the motion that Ping Pong be ranked number 3. The motion was seconded by Vice Mayor Hall. Roll call vote showed Councilpersons Hall, Hawkins Lanting, Munn, and Talkington voted in favor of the motion. Councilpersons Barigar and Mills Sojka voted against the motion. Approved 5 to 2.

MOTION:

Councilperson Talkington made the motion that Adrenaline Nation be ranked number 4. The motion was seconded by Vice Mayor Hall and roll call vote showed Councilpersons Hall, Hawkins, Lanting, Munn, Mills Sojka, and Talkington voted in favor of the motion. Councilperson Barigar voted against the motion. Approved 6 to 1.

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5. Public input and/or items from the City Manager and City Council.

Festival of Lights to be held on December 6, 2014, at 6:00 P.M.

III. ADVISORY BOARD REPORTS/ANNOUNCEMENTS:

IV. PUBLIC HEARINGS: None

V. ADJOURNMENT: The meeting adjourned at 8:55 P.M.

Leila A. Sanchez

Recording Secretary